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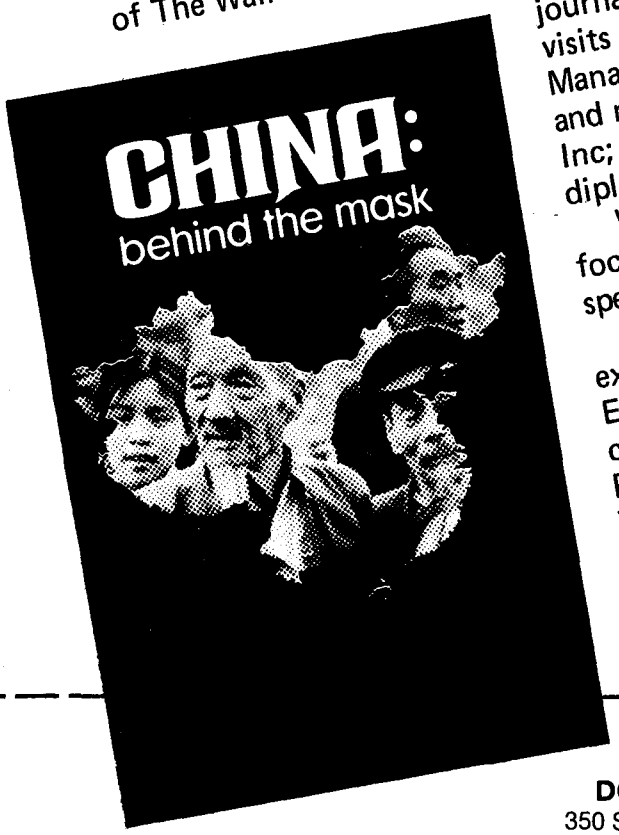

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TRB

from Washington
July 7, 1973

Little Things Mean a Lot

It is a strange picture—John Caulfield of the Committee for the Re-election of the President, holding a ladder in a back alley of Georgetown while another man at the top of the ladder puts a "bug" on the telephone line of syndicated columnist Joe Kraft. It caused hilarity in the White House as Caulfield told the story, and ousted presidential counsel John Dean reported it to the Ervin committee.

The big things are being taken care of in the Watergate shocker: For the second time in history formal accusations of criminal actions are being presented before a congressional committee against a President (Andrew Johnson was first). So let me tell about the little things, that somehow make vivid the atmosphere in the White House under Richard Nixon.

In one corner of the executive office a professional housebreaker and crook, enlisted for the President's personal Gestapo, is pasting together diplomatic cables (pressured from the State Department) to forge a spurious cable, making it appear that President Kennedy connived in the assassination of Ngo Dinh Diem in Vietnam. The fake cable is found in Howard Hunt's safe, along with bugging equipment—part of the political scene that includes wiretapping, burglary and similar revelries.

Or the White House atmosphere that causes income tax audits of writers on the Long Island newspaper *Newsday* that published an article about the President's friend C. G. (Bebe) Rebozo. Nothing new in that, though; the President smilingly tells Dean to keep a list of hostile newsmen in the campaign so that they can give them trouble after the election. That's Dean's story anyway.

Actually the moral distance is not very great, some will think, between breaking into Watergate and inviting federal Judge Byrne, at the climax of the Ellsberg case, to come down and visit the presidential offices and be tempted with appointment as head of the FBI.

Here is a little tidbit from the story of Jim McCord who turned state's evidence. Criminal lawyer F. Lee Bailey had been helpful in dealing with the recalcitrant McCord, Dean reports; he had a client with a cache of gold and wanted an arrangement to turn the gold over to the government without prosecution. It was a little too crude, though. At a war council Mitchell addressed the request for assistance to Haldeman (Dean asserts). But in this case "Haldeman was nonresponsive and the matter was dropped."

Intrigue was different in the case of poor, loyal Pat Gray, acting FBI director. He was persuaded by awe of the President to turn over confidential Watergate files to the White House as fast as they were gathered. Secretaries at GOP headquarters wouldn't talk to the FBI while their bosses were present and demanded private interviews, little knowing that what they said went promptly back to the GOP again.

Gray himself was led into the disposal of incriminating documents, taken from Howard Hunt's safe and gingerly handled by Dean. Ehrlichman coolly told Dean to shred the papers and "deep six" the Hunt briefcase. Dean refused, but asked what "deep six" meant. Ehrlichman said, "You drive across the river on your way home at night—don't you?" Dean said yes. Ehrlichman said, "Well, when you cross over the bridge on your way home, just toss the briefcase into the river."

Dean wouldn't "deep six" the stuff but between them they got the trusting Gray to destroy the documents. Then the President made him head of the FBI. The Senate wouldn't confirm.

What a sour, arrogant crew Ehrlichman-Haldeman were! In the frantic running around for a Watergate scapegoat (the order was, I believe, a "Cuban" plot, then the CIA, then "national security," then John Mitchell) the proposal was made to hold up the FBI Watergate investigation lest it would somehow "incriminate" the CIA. But CIA Deputy Director Gen. Walters wouldn't play ball. The White House had put him there, Haldeman told Dean, so they "could have some influence over the agency." No soap, said Walters. It angered Ehrlichman: What ingratitude! "Push him a little further," he told Dean. Walters was stiff as a ramrod. "He seems to have forgotten how he got where he is today," snarled Ehrlichman.

The atmosphere seeped down from the President. There was a paranoid fear of leaks and demonstrators and a belief that somehow it all intertwined with foreign plots. They instituted an FBI investigation of CBS correspondent Daniel Schorr, and then embarrassedly said they were investigating him "for a government post." They got a tip from the Secret Service and used it in 1972 to charge George McGovern was getting "Communist" help. Again, a memorandum from Haldeman to Dean, February 10, 1973, begins curtly, "We need to get our people to put out a story on the foreign or Communist money that was used in support of demonstrations against the President in 1972. We should tie all 1972 demonstrations to McGovern and thus to the Democrats as part of the peace movement . . . We could let Evans and Novak put it out and then be asked about it to make the point that we knew, and the President said it was not to be used any under [*sic*] circumstances. . . ."

These are the little tidbits that tell more than big ones. Toward the end the White House was being blackmailed by convicted Watergate conspirators demanding hush money—up to $1 million. According to Dean, anyway, the President told him that was no problem—and looked over to Haldeman and repeated it. But in his next-to-last meeting with Dean (April 15) the President began asking him a series of leading questions which made Dean think the conversation was being taped. Perhaps Mr. Nixon was justified, Dean was by now a double agent, reporting each night to government prosecutors. Dean alleges that the President corrected that comment about a "million dollars being nothing to raise"; he had of course, he said, only been joking. (We all know what a wag Nixon is.) In any case, Dean thought it odd that very near the end the President got out of his chair, went to the far corner of the office and "in a barely audible tone" said that he had probably been foolish to discuss Hunt's proposed executive clemency before a third party. All very strange and bizarre. Somebody is going to start a novel about the White House in 1973 and give it up. Nobody would believe it.

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Contents

3 Comment
Fruits of the Summit, Running the Stop Sign, Civilians in Vietnam, Volunteer Army, Getting Down to a Gas Tax, Workfare, Will Phase Four Work?
4 Running for Cover—*Walter Pincus*
6 Revenuers vs. Republicans—*Mitchell Rogovin*
9 Sex at High Noon in Times Square—*Nathan Lewin*
2 Films—*Stanley Kauffmann*
3 Theater—*Robert Brustein*
4 Books—Reviews by *Marjorie G. Perloff* and *Jay Martin*
8 Reconsideration: Willa Cather's *Song of the Lark*—*Lawrence Olson*
9 Poem—*Philip Booth*
1 TV—*Sedulus*

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Fruits of The Summit

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At last year's summit meeting in Moscow, President Nixon and General Secretary Brezhnev signed two important agreements limiting nuclear arms. One was a permanent treaty restricting each nation to two anti-ballistic missile (ABM) sites of no more than 100 launchers each. The other was an interim measure setting a ceiling on land-based intercontinental ballistic missiles (ICBMs), ballistic-missile submarines and submarine-launched ballistic missiles (SLBMs). These two accords were the result of several years of negotiation in Helsinki and Vienna, and they dealt in hard numbers with specific weapons and their deployment. By contrast the three agreements concerning nuclear matters signed in Washington on June 21 and 22 have no hard numbers and little specificity. This has led some to conclude that these documents are merely obligatory rituals of East-West summitry and "if either of the two signatories wants to find an excuse to go to war," as Kissinger observed, "it will find an excuse to go to war." Agreements are only as good as their signers want to make them. While last year's summit may have slowed down the arms race somewhat by limiting numbers of ICBMs and SLBMs, the development of weapons not proscribed has continued apace.

The skeptics have a good point, but for the time being we prefer to be sanguine about the three agreements that Mr. Nixon and Mr. Brezhnev recently concluded. *If* they are followed, step by step, by constructive action here and in Moscow, mankind will have moved another step back from the brink of nuclear disaster.

The "agreement on the peaceful uses of atomic energy" stressed cooperation between the two nations to satisfy "rapidly growing energy demands in both countries as well as in other countries of the world." Article two specified that "cooperation will be concentrated" in three areas: controlled thermonuclear fusion, fast breeder reactors and research on the fundamental properties of matter. To carry out the agreement, "there shall be established a US-USSR joint committee on cooperation in the peaceful uses of atomic energy." The committee will meet once a year: its principal tasks will be to recommend specific projects and programs to the governments of both countries and to supervise those that are approved. In concrete terms all the agreement does is establish the joint committee. Whether their meetings will lead to more than champagne toasts depends entirely on the importance both governments attach to the agreement.

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On the same day (June 21) the atomic energy agreement was signed, the President and the General Secretary agreed upon "basic principles of negotiation on the further limitation of strategic offensive arms." The only hard number one can point to in this document is the commitment of each nation to "make serious efforts to work out the provisions of the permanent agreement on more complete measures on the limitation of strategic offensive arms with the objective of signing it in 1974." (The interim measure signed in Moscow last year expires in mid-1977; hence the commitment to reach a permanent accord next year is significant.) In a reaffirmation of the SALT I agreements, both countries "will be guided by the recognition that efforts to obtain unilateral advantage, directly or indirectly, would be inconsistent with the strengthening of peaceful relations." Another provision of interest states that "both sides are prepared to reach agreements on separate measures to supplement the existing interim agreement." If followed this would represent a significant departure from Mr. Nixon's previous notion of "linkage" that was responsible, in some measure, for the early lack of progress at SALT I. It was only when he abandoned the concept in May 1971 and announced that the US and USSR had agreed to "concentrate" on reaching an ABM agreement that real progress began. While the matters at SALT II are more technically complex, certain issues might well be resolved relatively quickly. A ban of all flight tests of MIRVs (multiple independently targetable reentry vehicles) or a freeze on long-range bombers could be achieved soon. More tangled questions such as American aircraft based in Europe and force ratios that take into account the American technological lead and Soviet lead in missile-payload capacity will be more difficult to resolve.

On June 22 there was a "surprise agreement" on prevention of nuclear war. On the eve of his departure Mr. Brezhnev in a nationwide television address told the American people "this document is one of historic significance." The President called it, appropriately, a "nuclear code of conduct." The agreement requires both countries to "act in such a manner as to prevent the development of situations capable of causing a dangerous exacerbation of their relations, as to avoid military confrontations, and as to exclude the outbreak of nuclear war between them and between either of the Parties and other countries." (Those last three words were written no doubt primarily to allay China's fear of a Soviet preemptive attack.) Each country also agrees "to refrain from the threat or use of force" against the other and against third parties. If events create a danger of nuclear war involving either country, or both, *anywhere* in the world, the US and the USSR "shall immediately enter into urgent consultations with each other and make every effort to avert this risk."

These excerpts convey both the sense and the style of the three agreements. Little is required of either country in terms of definite performance, but both are committed to live by the *spirit* of the agreements. Realistically one cannot expect rapid progress in the exchanging of atomic secrets, and no one wants to see the "nuclear code of conduct" tested by a nuclear crisis. Thus the agreement that will measure the *bona fides* of each country will be the second: "basic principles of negotiation on the further limitation of strategic offensive arms."

After the Moscow summit the President was concerned about getting congressional approval of the ABM treaty and the offensive arms accord. The treaty required the Senate's consent before it could be ratified, and the President voluntarily submitted the interim offensive arms limitation agreement to both houses for approval. The situation this year is completely different. None of the three agreements is a treaty requiring Senate approval, and the language in all of them is so unobjectionable and the provisions so vague that one cannot foresee even a handful of legislators rising in opposition to them. In short no one can legitimately argue *this year* that the President needs to appease his right flank with increased spending on nuclear weapons. What former Secretary of Defense Melvin Laird once called the "growing Soviet threat" seems now to have stopped growing. So if the US is going to forswear "efforts to obtain unilateral advantage," then we will have to take certain unilateral steps to prove our good faith. They need not be large steps that cannot be reversed, but they ought to be enough to encourage the Russians to reciprocate.

The most important steps we could take would be to limit or, indeed, halt development of the B-1 strategic bomber and the Trident ballistic-missile submarine. The air force is asking $474 million to continue development of a bomber that will cost from $45 to $60 million a copy. A more modest pace of development or termination of the excessively expensive B-1 while it is still in the embryonic stage would neither endanger our security nor reduce our bargaining power. The Trident submarine was originally scheduled for deployment in 1981, but Laird accelerated its development two years ago so the first boat might go to sea in 1978. (Lack of progress at SALT I was used as a reason for the speed-up.) The navy asked for nearly $1 billion last year and this year is requesting $1.7 billion. Putting the Trident back on its 1981 schedule would not only demonstrate good faith but save taxpayers $1.2 billion in unspent procurement funds.

There is nothing in the "basic principles" to *compel* Mr. Nixon to undertake even modest cuts in the B-1 or Trident programs. Indeed one provision of the agreement could be construed as sanctioning such programs. Although the third article suggests future arms limitations "can apply to their quantitative aspects as well as to their qualitative improvement," the fifth article envisions that "modernization and replacement of strategic offensive arms would be

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permitted." The President can take the narrow view, claim that the new weapons are not proscribed and continue full-speed-ahead under the banner of "modernization and replacement." The agreement is loose enough to allow both President Nixon and General Secretary Brezhnev a pretext for continuing arms competition if either is of a mind to. The question that must be addressed before Congress approves the Pentagon's lavish spending on more nuclear weapons is whether or not those weapons are needed to maintain deterrence of nuclear war.

There are *indications* the Soviet Union has decelerated its nuclear arms building since the SALT I agreements were signed in Moscow last year. As yet there is no *proof* that there has been a slow-up or, for that matter, a speed-up. On June 12, in a thoughtful speech on the Senate floor, Senator J. William Fulbright (D, Ark.) raised a number of questions that the President ought to answer before Congress continues funding weapons such as B-1 or Trident. Using the doomsday scenarios raised by Senator Henry M. Jackson (D, Wash.) a year ago, Fulbright wondered whether events since then require alteration of these imaginings. What happened to "those big, terrifying, new Soviet missiles that were seen on the horizon"? he asked. "What ever happened to those huge new holes . . . which were supposed to presage deployment of a new generation of still larger missiles?" "Whatever happened to the tremendous Soviet throw weight [missile-payload] advantage mentioned last year?" Are there "indications" the 200-missile SS-7 and SS-8 fleet will soon be retired? The Soviet Union has one ABM site around Moscow and the treaty permits a second one to be built; "have any steps been taken to begin the allowed second [ABM] complex?"

Perhaps the chairman of the Senate Foreign Relations Committee has inside information to answer some of the questions he posed. Indeed he remarked that if "those who were disturbed last year were to consider the answers to these questions, they might now find themselves reassured as to the intention of the Soviet Union to live up to the terms and the agreement." If, in fact, the Soviet Union has exercised restraint in its nuclear arms programs since the SALT I agreements were signed, the United States has an *obligation* to note that restraint publicly and to reciprocate. So far President Nixon has made no public assessment of Soviet compliance with the letter and spirit of the Moscow accords. In the light of the noble prose that flowed from the Washington summit, the President needs to make such an assessment if he values public support for his nuclear arms programs.

In speaking to reporters about the "nuclear code of conduct," Henry Kissinger, still the President's national security adviser, cautioned that the agreement "cannot be approached from the point of view of a sharp lawyer pushing against the limits of every clause, because if that is going to be the attitude, the agreement will not have any significance." Mankind will be the safer if Mr. Nixon and Mr. Brezhnev have such thoughts in mind when their generals and admirals come to them demanding more nuclear arms.

". . . so Dean testifies that Erlichman told him that Colson had told him that Mitchell had said that he . . ."

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Running the Stop Sign

A relative newcomer to the peace movement, the House of Representatives failed last week to override President Nixon's veto of the first antiwar amendment to pass both houses of Congress. But the growing House support for such a challenge is a major break with the past. Until last May, the President could depend on the House not to tamper with his war. The Senate between 1970 and 1972 had narrowly passed three measures cutting off Indochina funds, but none survived the House. Then last week, after having adopted a limited antiwar amendment May 10, the House voted 235-172 to "recede" from that provision and by voice vote approved the strongly worded Eagleton amendment prohibiting the funding—from all currently available sources—of military operations in or over Cambodia or Laos. All that Minority Leader Gerald Ford (R, Mich.) could do was doggedly guarantee enough Republican votes to sustain the veto that promptly ensued.

The theme of the veto message was pure LBJ-cum-John Foster Dulles: the US must keep its commitment to prevent the "conquest of Cambodia by Communist forces"; military pressure provides a necessary incentive to the Communists to negotiate. Possibly Mr. Nixon thinks that by taking this uncompromising line he can rise again as commander-in-chief, rise above the scandals surrounding him and find renewed acceptance by the public as a credible defender of the nation's security.

The Eagleton amendment was attached to $3.36 billion worth of supplemental appropriations needed to finance several federal departments—particularly Defense—through the rest of fiscal '73. The House could continue to insert similar prohibitions into future appropriations bills. It has already added an anti-bombing amendment to the continuing appropriations resolution, which tides over most of the government until fiscal '74 appropriations come through. Senator Mansfield plans to attach riders to other bills "again, again and again until the will of the people prevails." (Within hours of the veto of the Eagleton amendment, the Senate voted 67-29 to place a comparable revision on a bill extending the federal debt ceiling through November. Such action is needed to provide legal backing for $55 billion of federal securities.) Rather than subject Congress to a continued massive veto campaign reminiscent of the pre-election feuds, the President may, finally, have to accept the fact that majorities of both houses oppose this nation's continued participation in the war. That assumes, however, that those majorities stand firm and are ready to stare down the President. Damaged as he is by Watergate and the cover-up, he may then be forced to back off, the alternative being the temporary disruption of government.

If a measure like the Eagleton proscription were to become law, US bombing of Cambodia could go on only until the money for it runs out. But it may not go on that long. Requesting authority to transfer funds within the Defense Department, former Secretary Richardson testified May 7 that the Cambodian operations were draining finances urgently needed elsewhere. Richardson threatened that "the readiness of our forces worldwide would be degraded to a dangerously low level" if the department had to continue scrounging for bombing money. Unimpressed, Congress authorized a transfer of only $75 million—less than one-fifth of the request—provided none of it went for combat in Cambodia or Laos.

President Nixon ought to have been grateful to the Congress for allowing him to get out of Cambodia without claiming or conceding anything. Communist forces, entrenched at the outskirts of Phnompenh, still control much of the country, and the Pentagon admits that the situation hasn't changed in weeks, despite destruction from nearly 100,000 tons of bombs. Since "peace with honor" was announced, the US has lost nine planes (eight over Cambodia and one over Laos) and 15 men (four listed as missing).

SUMMER SCHEDULE:

next week's issue will be omitted, as will those of August 4 and 25

Civilians in Vietnam

Although the government successfully met the deadline for getting US soldiers and bombers out of Vietnam, it is taking a more casual approach to meeting other commitments. By the terms of the cease-fire, the US was required to remove arms and munitions as it departed, and dismantle all military bases "of the United States and of . . . other foreign governments." This clause was evaded by turning everything over to the Vietnamese at the last moment before signing the treaty. We went even further in programs called "Enhance" and "Enhance Plus" at the end of last year, hurriedly dumping on the South Vietnamese among other items, 600 aircraft (to add to the 1248 they already had), including 280 helicopters and 280 fighter planes. The Vietnamese were not prepared to use all this equipment; they needed training, parts and repairmen. According to a Senate Foreign Relations

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Committee report released June 11, the "South Vietnamese Air Force will require training in the United States for over 800 pilot trainees to bring the pilot inventory up to authorized strength."

With the withdrawal of American military technical experts, there was an immediate need for all kinds of trainers and maintainers in Vietnam. Many people may not realize that the US still directly hires and pays the salaries of a large number of experts in Vietnam to run the weapons and communications machinery we left behind. In the past, when US military men were still in Vietnam, most of those salaries were funded directly as US operating expenses in the Pentagon budget. The remainder were financed under the "Military Assistance Service Funded" program (MASF), a substitute for foreign aid in Laos and Vietnam. That spending—because of the extreme conditions imposed by war—was handled by the Pentagon without close congressional scrutiny. The authorizing bill stated that this money was to be spent on "Vietnamese and other free world forces . . . on such terms as the Secretary of Defense may determine."

Now that we're out of Vietnam, the old rules don't apply. The only way the Pentagon can legitimately spend money there is through the second route: MASF. The former route—direct Pentagon spending—no longer is possible because the US has no bases and no agents in Vietnam, and therefore no costs of our own.

The most recent official guess as to what we're spending was offered by Rep. Les Aspin (D, Wisc.) on June 11. He released a list of contracts paid for by the Defense Department for work being done in Vietnam, Laos, Cambodia and Thailand. As of April 1, 1973, the total estimated value of 61 contracts in Vietnam was about $158.6 million. Contracts in force in Laos came to about $12.5 million, in Cambodia $914,000 and Thailand $88.5 million.

When the Senate Foreign Relations team (Richard Moose and James Lowenstein) visited Vietnam this April, they found evidence of expenditure somewhat higher than Aspin's guess. They wrote that "At the time of our visit there were 283 contracts in force with US, Vietnamese and third country contractors having a total value of $240 million [not $158 million] for the provision of a variety of support, training and management services. . . . If current projections hold, the number of service contracts in force after January 1, 1974, would be reduced to 64 with a value of $16.3 million. These figures, however, do not include communications-electronics contracts which may be rather sizeable, and they may not reflect recent lengthened projections of the duration of substantial support to the Vietnam Air Force." The very latest estimate from the Pentagon news office is that there should be *no* request for new contracting money in fiscal 1974. As usual no one is upset that the Defense statistics of yesterday bear no relation to those of today.

The original Defense estimate for withdrawing US contract personnel from Vietnam has been thrown off by failures of the cease-fire. The Senate report says that the number expected to be in Vietnam on January 1, 1974 was originally "less than 2000," but was later adjusted up to 2136. It may climb further. Most of these jobs involve training Vietnamese how to repair airplanes, vehicles, radar and other sophisticated electronic equipment. There are some other large contracts for fuel and parts supply. The largest contractor in Vietnam on Aspin's list is Lear Siegler, Inc., which was awarded $27.4 million for "operation and maintenance of bases and aircraft." As late as February this year Lear Siegler was running classified ads for "Crew Chiefs—Jet fighter aircraft . . . General aircraft mechanics . . . Electronic technicians . . . Helicopter mechanics" and others whom it has sent to duty in Vietnam. A spokesman for the company said the contract was for training Vietnamese in repair work at a fee of $25 million not $27 million, and that because it was a "call-contract" he could not cite any terminal date. Apparently this means that Lear Siegler will continue to supply the Pentagon indefinitely, on call.

Another contractor named on the Aspin list was Pacific Architects and Engineers of Los Angeles, hired at $13.4 million to train Vietnamese among other things in the operation of "LORAN" radio stations which are used to guide bombers and other airplanes. The company spokesman said he thought the contract was for less than $13 million; but he too was unable to cite a terminal date. The contract had been due to end this month, but now it has been extended for an undetermined length of time.

No doubt this is the tawdry final phase of our presence in Vietnam; we may be entirely out of the country by the end of 1974, as promised. Perhaps by then the Vietnamese will be fully capable of running the powerful machinery we've given them, and our well-paid specialists (average salary, $50,000) will come home. The phase-out may happen faster if Congress accepts the proposal of the Senate Foreign Relations Committee to abolish MASF spending altogether next year.

Few care at this moment that the Defense Department still pays Americans to help run air, radar and communications bases in Vietnam. There is a good example of this in the House Armed Services Committee, the body that supposedly keeps Defense spending under congressional control. It had just listened to the Pentagon's fiscal 1974 budget proposal. The staff counsel who specializes in this field, James Shumate, Jr., was asked what he thought the 1974 level of Defense contracting in Vietnam would be. He wanted to know, "What are you talking about?" Well how much does the Defense Department intend to spend on the MASF program next year for contracts in Vietnam? "They're not asking anything for Vietnam that I know of. Be specific, what do you mean?" In the

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end Shumate concluded that since he hadn't heard anything about it, the cost, if there were any, must be covered in some foreign aid bill. The war is over and everyone is eager to forget it.

Volunteer Army

In 1968 Richard Nixon campaigned on a pledge to end the draft and establish an all-volunteer armed force. That promise has been kept although, like the one to end the war in Vietnam, it took four years to fulfill; during that time some 600,000 draft calls were issued. Although it had six months more to live, the draft passed away quietly at the first of this year; officially, however, the interment took place at the end of the fiscal year, June 30. There was no memorial service and few mourners, but several million young men may be listed as survivors.

The draft has long been a divisive issue. Its champions see conscription as a social leveler which insures that persons of all races and classes will serve in the ranks. Its detractors view it as a deprivation of individual liberty, unjustified except in time of mass mobilization (World War II, for example). All are agreed, however, that ending the draft and replacing it with a volunteer army is going to be costly. How costly and how well the transition to voluntary recruitment has been going were two of the questions addressed in a recent report prepared for the Senate Armed Services Committee by Martin Binkin and John D. Johnston of the Brookings Institution. Unlike so much of what has been written about conscription and the volunteer army, the Brookings report is admirably objective. "The study was not intended to, and does not, make a pro or con recommendation on the basic wisdom of the volunteer concept," said Chairman John Stennis (D, Miss.); rather, it "provides a discussion of the various issues of supply and demand of manpower and of cost."

At the peak of the Vietnam war (fiscal year 1968), there were 3.55 million men and women in the armed forces; now there are nearly 2.3 million, and long-range plans call for 2.23 million active duty forces. To sustain this level the Department of Defense estimates it will need 354,000 enlistments in fiscal 1974. In the fiscal year just concluded 419,000 enlistments were anticipated, but because there was a draft in the first half of fiscal 1973, not all these enlistees can be considered "true volunteers" (*i.e.*, not motivated to enlist by fear of the draft). The Brookings report uses a figure of 15 percent less, or 356,000 "true volunteers" for fiscal 1973. So it would appear that there will be sufficient numbers of volunteers to meet next year's enlistment needs.

Although the size of the armed forces has dropped, the size of servicemen's paychecks has skyrocketed. From 1968 to 1973, while manpower was being cut over a third, manpower expenditures climbed from 42 percent to 56 percent of the defense budget. In terms of dollars, the military payroll went from $33 billion a year to $42 billion, and next year it will be $44 billion. There is a mistaken impression that most of this $12 billion boost can be attributed to the higher costs of a volunteer army; only about one-fourth of it can. The big pay raises have gone to high-ranking officers and noncommissioned officers. The added cost of the volunteer army for 1973 is $2.7 billion; for 1974 it will be $3.1 billion.

One objection heard against the volunteer army is the fear that it will become disproportionately a black army, and while black enlistments have recently increased, the increase has been modest. Nonwhites now account for 14.2 percent of the armed forces: about two percent more than their number in the US population. Their enlistment rate went up noticeably in 1970, but it appears now to be leveling off just below 20 percent. Concern has also been expressed that a volunteer army will be unable to attract men of sufficient mental and physical abilities, but so far, the report says, "the quality of volunteers . . . has generally improved since fiscal 1970." The improvement, however, has not been uniform. For example the proportion of high school graduates enlisting in the army dropped from 60 percent in 1972 to 50 percent this year. On the other hand, the report points out, there has been "a moderate increase in those [enlistees] with average scores [on the Armed Forces Qualification Test], and—of most importance—a steady decrease in enlistees with below-average scores."

The volunteer army has several immediate problems. First among them is a manpower scarcity in three areas: health professionals, reserve forces and critical military skills (including combat arms). Take, for instance, the problem of maintaining adequate numbers of physicians and dentists. About two-thirds of them enter the military as the result of a "doctor draft"; without it, the medical corps would quite rapidly deplete its ranks. Replacing these doctors with civilian physicians is one possible remedy, but it would be expensive and might not be possible with the present doctor shortage. The military could fund more medical scholarships, but it would take many years for the increase to be felt in the service.

The physician shortage is a special problem, but the overall challenge of the armed forces is to attract young men and women into the service in competition with other employers in a rejuvenated labor market. With unemployment high among teenage males, a military paycheck *now* looks relatively good, but in better economic times it may become less attractive. There are about 12 million 17- to 22-year-old men, but eliminating those who cannot volunteer because they fall short of the mental or physical standards as well as those

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who are unlikely to volunteer [*e.g.*, college students], less than a third, 3.82 million men, can be considered to be "qualified and available" for enlistment. (This is the projected average for 1975 to 1979.) The future of the volunteer army depends on the military's ability to attract about a tenth of this age group to enlist every year. The Brookings report put it another way: "To maintain an all-volunteer armed force of 2.23 million active personnel under current policies will require that one out of every three (33 percent) qualified and available men will have to volunteer for active military service before reaching age 23." The report calls this task "formidable," and it is.

Getting Down to Gas Tax

Neither the ballyhooed gasoline shortage nor all the urgings of government and industry have yet induced Americans to drive their cars less. The Department of Transportation continues to estimate a fuel shortfall for this summer, ranging on the average between one and five percent of demand. Furthermore, EPA projects annual gasoline consumption *growing* at the rate of 5.5 percent.

The direct way to restrain the use of gasoline is to raise gasoline taxes. In some European countries fuel taxes of 70 cents per gallon have not only succeeded in sharply reducing consumption but, in the longer run, have encouraged the purchase of smaller, more fuel-efficient cars. US gasoline taxes are substantially lower—four cents per gallon at the federal level and between five and nine cents per gallon in most states. Proposed increases in the federal portion of the tax have been in the neighborhood of five cents per gallon. At such levels price changes might not be great enough to cause much decline in the demand for gasoline. The shortage could persist, and low-income drivers would suffer the most.

As a potentially less regressive alternative to higher gasoline taxes, the Department of Transportation is currently examing the concept of a "fuel economy tax," levied only on new vehicles. Such a tax might provide exemptions or bonuses for fuel-efficient compact or subcompact cars and impose various stages of penalties on the "gas guzzlers." The department estimates that when cars that get at least 22 miles per gallon comprise half of the auto population, we will be consuming 11 percent less gasoline.

Unfortunately in 1970 fuel-efficient vehicles were only 10 percent of the total, and the department concedes that the transition might take as long as a decade. Further, the excise tax would not affect the purchase of used cars, which are often less fuel-efficient. And compared with gasoline taxes the fuel economy tax is subtly unfair. By only indirectly influencing consumption of gasoline, it penalizes those persons who prefer to own big, luxury cars but don't drive them much.

President Nixon did not recommend any gasoline-related tax increases in his recent economic message, though he was known to be weighing such alternatives. Some administration officials believe that a gasoline tax hike was ruled out as inflationary and would have looked "out of place" in a speech about keeping prices down.

Concern about probable price effects should not obscure the more fundamental issue of the fuel shortage. At current prices the choices are to let the supplies run out or to develop more or less arbitrary rationing procedures. In the absence of price controls, the companies would raise gasoline prices themselves as a method of decreasing demand. Increasing gasoline taxes would be preferable to that.

The most serious drawback of gas tax increases is that Congress might channel the additional revenues into the highway trust fund. Measures intended to curb the use of the automobile could thus saddle us with more highways. The revenues generated should instead be earmarked for fuel conservation research or mass transit.

Workfare

One of the remnants of the President's welfare reform campaign—"workfare"—was reinforced by a Supreme Court decision on June 21. Workfare became part of the federal welfare system in 1967 when Congress created the Work Incentive program (WIN) for able-bodied welfare recipients. For the first time, the employable poor were selected out for special attention and asked to register with the Department of Labor. Under WIN regulations, made stiffer by amendments in 1971, everyone on the work list (except for mothers of children younger than six, minors and students) was required to register for employment, accept a "suitable" job if offered one, or go into job training financed by the government. Though couched in terms of "opportunity" and aid to the poor, WIN was intended to purge thousands of idlers who were thought to have found their way into the welfare ranks. After the new law took effect, however, states were surprised to find that it had little effect on the number of people applying for welfare. The numbers continued growing until about a year and a half ago.

Because states must contribute a share of the federal welfare payment, those with the largest welfare budgets were beginning to worry that welfare would bankrupt them. California and New York launched drives to get the "chiselers" off the rolls; they began searching for a way to reduce welfare costs by changing the standards of eligibility. The Supreme Court had al-

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ready decided that it was unconstitutional for states to impose residency requirements and other restrictions not authorized by federal law. As a result states were cautious about taking any unilateral action. But California and New York examined the federal statutes carefully, tightened up their work requirements as far as possible and applied to the Department of Health, Education, and Welfare for special waivers to go beyond federal regulations in imposing work rules. These waivers were needed, the states said, because they wanted to conduct experiments in public aid and job finding. HEW decided to approve this pragmatic "research."

California's experiment required all able-bodied welfare recipients in seven counties to report to the employment office, take a job or accept training. If these efforts failed, the welfare recipients were required to work 80 hours a month without pay doing "useful work in the community" while seeking regular employment. New York's program is similar, but has never been applied to federal welfare recipients. Those whose aid is financed purely by the state, however, are required to take unpaid public jobs if they can't find anything else.

The New York rules were challenged by a welfare rights group on the grounds that they were too restrictive and enforced a form of slave labor. New York requires that employable welfare recipients appear in person to pick up their checks twice a month and that they bring with them a certificate showing that they have been to the employment office and have not refused a job. The welfare group argued that federal law said nothing about filling in certificates or collecting checks in person. A US district court in Buffalo agreed with this, saying that federal laws automatically preempted state regulation, and that New York's work rules should not apply to federal welfare families.

On June 21 the Supreme Court overturned that ruling 7-2. Speaking for the majority, Justice Lewis Powell said that so long as the federal act did not specifically void state regulation, the court would not assume that it did. There is no such clause in WIN, he said, and therefore the Court would not meddle: "To the extent that the Work Rules embody New York's attempt to promote self-reliance and civic responsibility, to assure that limited state welfare funds be spent on behalf of those genuinely incapacitated and most in need, and to cope with the fiscal hardships enveloping many state and local governments, this Court should not lightly interfere. The problems confronting our society in these areas are severe, and state governments, in cooperation with the federal government, must be allowed considerable latitude in attempting their resolution." However the Court did not decide the narrower and more difficult question of whether or not these particular work rules were compatible with WIN regulations. That was sent back to the lower court for decision.

At least one important official thinks the Supreme Court ruling will encourage more workfare systems like California's. Robert Carleson, special assistant to the secretary of HEW for Welfare, believes that some states may enact stricter work requirements that have been held in abeyance pending settlement of the constitutional issue. As the former director of California's welfare system, Carleson praises the workfare idea as a way of raising welfare payments without increasing the welfare population. Carleson says that since January 1971 when California adopted its new welfare program, 280,000 people have left the welfare rolls. He construes this as an actual decline of 700,000 by adding on all those who would have joined if past trends had continued. At the same time payments were *increased* by 27 percent for those who remained in the system. Carleson believes this method is the best one for raising standards for the poor without encouraging others to quit their jobs.

Despite the enthusiasm for work requirements in Washington, DC, state welfare departments don't seem very interested. A sample of three states with heavy welfare loads—Illinois, Ohio and Pennsylvania—turned up little concern for the Supreme Court action. All three welfare departments said that federal work requirements were already in effect and that nothing more stringent seemed necessary. Officers in the Illinois and Ohio welfare departments said that it seemed futile to require people to seek jobs when there aren't enough to go around. Last year in New York there were 150,000 applicants for 90,000 WIN slots, and in California there were 122,000 competitors for only 18,000 WIN slots. Regular jobs are even harder to find. Unless the job market changes, states are not going to rush into law a new array of forced work programs.

Will Phase Four Work?

It's difficult and even dangerous to forecast Nixon economic policies (or "Nixonomics"). In the summer of 1971 he and his advisers swore on a stack of Maynard Keynes texts that they had no intention of imposing wage and price controls; but they did, and devalued the dollar to boot. When Phase Two gave way to Phase Three last January, Treasury Secretary George P. Shultz cautioned that any company or union that got out of line would get "clobbered"; the administration, Shultz said, would not hesitate to use its "stick in the closet." Well nobody got clobbered, except the American consumer, and he with spiraling prices. When the club was finally brought out it was for the President to announce his Phase 3½ price freeze. Now the word continues to be that Phase Four, to be implemented sometime around August 12, will be tough.

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Can we believe what's being said this time? Chances are for a change we can.

For one thing the White House must act to prevent the kind of "price bulge" that occurred after the original freeze gave way to Phase Two. Companies rushed in with price increases that had been postponed during the 90 days of Phase One, and the consumer price index shot skyward. This time the pressures for higher prices are even more acute because inflation is more acute. Prices have been rising not only on a variety of items familiar to the housewife but on a long list of commodities and raw materials used in everything from refrigerators and autos to roofing materials and clothing. In the last year price increases on some commodities have been meteoric: cotton up 25 percent, print cloth up 65 percent, wool up 120 percent, rayon up 62 percent, steel scrap up 56 percent, silver up 58 percent, rubber up 120 percent, lard up 90 percent, tallow up 157 percent and cottonseed meal up 217 percent. One index of 13 nonagricultural industrial raw materials rose 25 percent in two weeks and in mid-June was 35 percent higher than a year earlier. So it reasons that when Phase Four machinery is put in place, the Cost of Living Council will see a long line of corporate lawyers supplicating for price relief. The line may be headed by steel, copper and paper, which saw their scheduled price increases aborted by Phase 3½. It's clear that whatever the new guidelines, Phase Four will quickly be tested, as will the determination of the White House to use whatever clubs it puts in the new closet.

Even if the American economy slows down (and there already are signs that the peak of the boom has passed), there seems little chance that inflation also will slow. Demand for foodstuffs and industrial commodities continues very high world-around and in almost all cases demand exceeds supply. The shortage of foodstuffs might be explained by drought and deliberate government planting restrictions, but one must wonder why the highly placed and highly paid corporate executives in metals, oil and chemicals didn't foresee the sharp rise in world demand and expand accordingly. In oil at least, there are charges that the shortage has been deliberately fostered by giant companies to drive up prices and drive out independents; but such charges remain to be proved. In any event, there seems scant hope that both the industrial and foodstuff price trend is about to be reversed, and if the President wants Phase Four to work he must be ready to use the club.

Farm commodities and foodstuffs have to get special attention in Phase Four. There already is the prospect of reduced supply of some products, notably eggs, broilers and canned fruits and vegetables. Growers, processors and canners say that while their prices are frozen the prices of raw products they use are still going up. So much so that to continue normal production they would lose money. Nixon obviously is in a dilemma here: he can stick with the freeze on raw farm commodities in Phase Four and hope that an expanded domestic supply will bring down prices or he can permit selective food price increases at the wholesale and retail levels. The guessing is that he will have to opt for the latter course to avoid black markets and reduce grocery store supplies.

This persistence of inflation, both here and abroad, leads to the question how long will controls be with us. Phase Two, which worked rather well, lasted 14 months, and at this early date it might be safe to assume that Phase Four will last as long. Few economists think permanent price and wage controls should be a part of government policy, but more and more persons are coming to suggest a permanent policy for price and wage stability as coequal to the full employment policy that dates to 1946. At times controls and even a freeze might be necessary, but for the most part the government must assume a steady-hand policy to take actions that are designed to provide high employment and relative economic stability. This policy might take the form of a permanent wage-price review board with standby authority for stronger measures. What also might be undertaken is a fresh and deep study of present and future economic conditions to illustrate that with today's giant corporations and big unions old-time economic laws no longer work as textbooks advise us.

"The carts? They're for carrying in the money."

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Why Dean Did It

Running for Cover

by Walter Pincus

The lawyers for then White House counsel John Wesley Dean III met with the government prosecutors of the Watergate case on the afternoon of April 2 to see what kind of immunity could be arranged in return for Dean's testimony. Dean had a lot to tell. He had been in conferences where bugging of Democratic Party officials had been discussed, long before five men were arrested inside the Watergate offices. He had thereafter been at the center of the government-wide cover-up that developed immediately after the arrests —a cover-up that ran through the trial and continues in part today. At the direction of others and on his own, Dean had sought to palm off the blame for the burglary and bugging on CIA, or at least for the paying of expenses and hush money to the defendants. He had helped raise money for those in jail. He had kept Nixon campaign committee officials apprised of FBI interview reports, relayed promises of executive clemency to silence a defendant, rehearsed a witness who was to commit perjury before the grand jury, and helped devise a strategy to impede the Ervin Select Senate Committee investigation of the matter. Most important of all, Dean was the link between these deviltries and the top men in the White House—H. R. Haldeman, John Ehrlichman and Richard Nixon.

Why was Dean, a conventional team member, willing to talk to the prosecutors on April 2? He has told the Ervin committee that he came to think the lies wouldn't "sell"; moreover, in words he says he used March 21 to Mr. Nixon's face, that this scandal had become "a cancer growing on the Presidency and that if the cancer was not removed, that the President, himself, would be killed by it."

A close reading of Dean's statement, however, and those of other participants, suggests more than this was involved. In March Dean had been pushed into the forefront of events. His name surfaced several times during the confirmation hearings of L. Patrick Gray III to be permanent head of the FBI. Dean was identified not only as the aide who investigated Watergate for the President (which he now convincingly says he didn't do), but also the man who brought Watergate conspirator G. Gordon Liddy over to the reelection committee (which he did) and the man who "probably lied" to the FBI. Briefly, the Senate Judiciary Committee held Gray's nomination hostage to an appearance by Dean before that committee. Dean's sudden prominence assured that he would be called before the grand jury that was reinvestigating Watergate after completion of the first trial. Those closest to the affair—and Dean had to be one of them—were certain that the seven defendants would not continue to keep silent in the face of a renewed grand jury.

In short Dean had good reason to believe by the end of March that the White House had to come up with a new scapegoat on whom blame could be put for the original bugging and for the elaborate concealment of what went on during the 1972 campaign. Dean was beginning to suspect that he was to be the goat, perhaps alongside former Attorney General John Mitchell.

Dean dealt gingerly with the federal prosecutors at first, keeping these meetings secret from his superiors, Haldeman and Ehrlichman. But as his testimony shows, almost immediately he interested the prosecutors in the cover-up stratagems of the President's two closest advisers. During the first two weeks in April the most byzantine game was played among the top White House staff and the President. In the first week Ehrlichman, Haldeman and the President were in California, Dean in Washington. Paul O'Brien, a lawyer for the reelection committee and a friend of Mitchell, flew to California at the former attorney general's request to pass along Mitchell's version of the pre-Watergate events to Haldeman. However he was switched over to Ehrlichman, who had supposedly been assigned the Watergate investigatory role after Dean was relieved of the job by the President. O'Brien informed Ehrlichman of the two intelligence-planning meetings that had been held in the attorney general's office, but said that Mitchell both times turned down Liddy's plans for bugging. He added that Mitchell believed Gordon Strachan, Haldeman's liaison man with the reelection committee, was the person who got the break-in project finally underway.

On Sunday April 8 Dean telephoned Haldeman in California to say he was to meet face-to-face with the prosecutors that afternoon. According to Dean, Haldeman told him to hold off. Haldeman's aide then asked Dean to see Ehrlichman at the White House that same afternoon, immediately upon the return from California. Dean went ahead with his meeting with the prosecutors, and then met Ehrlichman and Haldeman. He lied to both about his earlier session, saying that his lawyers still were talking about immunity.

The following day's *New York Times* reported McCord's statements to the grand jury about hush

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money payoffs to the defendants. That day also, Robert Reisner, Jeb Magruder's former administrative assistant at the Nixon campaign committee, confirmed to government prosecutors that meetings on bugging such as those described by McCord, had taken place in Mitchell's office in January and February 1972. The government was closing in on Mitchell, and he asked Dean to meet with him the next day. Dean, by now in contact with the prosecutors through his lawyers, was told to wear a tape recorder to the Mitchell meeting but says he refused.

On Tuesday, April 10, Attorney General Richard Kleindienst in testimony before a Senate committee put forward a very tough interpretation of executive privilege—one that would cover any and all government employees, even in criminal cases. The White House issued a statement supporting Kleindienst's position, another sign of the "tough-it-out" position that had been taken. At their afternoon session, Dean explained to Mitchell that his thinking was to drop executive privilege and Fifth Amendment covers and testify before the grand jury.

On April 11, Magruder, who had perjured himself during the first Watergate trial, called Herbert Porter, an aide whom Magruder also talked into testifying falsely. Magruder, aware that his phony story was being shredded by Reisner's testimony, suggested Porter go to the prosecutors and save himself by telling what he knew. The next day, Magruder himself sent his lawyer to talk to the prosecutors.

The unravelling was rapid. On Friday the 13th, former White House aide Charles Colson met with Haldeman and Ehrlichman. Colson thought Mitchell should take the rap. Mitchell aide Fred LaRue met with Dean and told him Magruder was disturbed because any statement made to the prosecutors would implicate Mitchell. Dean suggested LaRue get his own lawyer since LaRue was involved in the cover-up. That night Magruder decided to see the prosecutors the next morning. But he telephoned Haldeman's aide, Larry Higby—who recorded the conversation—and apparently pledged that he would say nothing to implicate Haldeman.

On Saturday morning April 14 Magruder told the prosecutors of the original bugging as authorized by Mitchell, and the sending of wiretap information to the former attorney general. He also described the cover-up as he knew it, implicating Dean, Mitchell and Haldeman. But his statements did not touch the President. Magruder then called on Ehrlichman and gave him a shorter version of what he had told the prosecutors. Ehrlichman taped the session. Ehrlichman then met with Mitchell for 20 minutes. According to Ehrlichman, Mitchell insisted "he had no liability or responsibility for the events [that led up to the bugging]." Ehrlichman reportedly told Mitchell the President now wanted no one to remain silent before the prosecutors. An earlier plan to have the President personally talk to Mitchell about the bugging apparently was not carried out. (Martha Mitchell claimed her husband did talk to the President April 14 and perhaps he did, but no one as yet has admitted it.)

That afternoon Dean drew up a list of those who he thought were criminally liable. On it were Mitchell, Magruder and Strachan, for the pre-break-in period, and Ehrlichman, Haldeman, Dean, LaRue, Colson, Finance Chairman Maurice Stans, Nixon committee lawyers O'Brien and Kenneth Parkinson, Nixon lawyer Herbert Kalmbach and two men who allegedly delivered clemency messages and hush money, William O. Bittman and Anthony Ulasewicz. Dean showed this stunning list to Ehrlichman and Haldeman when he met with them later that day. They were not pleased, Dean later testified, with the linking of their names to the crime of obstruction of justice.

What happened the night of April 14 is still uncertain. It was, ironically, the night of the White House correspondents' dinner, at which the President spoke briefly. He was not around when the $1000 Worth Bingham award for investigative reporting was given the two *Washington Post* newsmen, Carl Bernstein and Bob Woodward, who had so doggedly pursued the Watergate story. Kleindienst was there, however, and did not return to his home until after 1 am. Ehrlichman says he talked that night to Kleindienst from the President's office and told him his conclusions about Mitchell, Magruder and Dean. According to a log put together by the Ervin committee from White House records, it was the President who called Kleindienst with Ehrlichman's findings and in turn was told of "possible involvement of Haldeman, Ehrlichman and Strachan." Kleindienst has another story that Assistant Attorney General Henry Petersen and Assistant US Attorney Earl Silbert were at his home awaiting his return from the dinner with information from two witnesses—probably Dean and Magruder—which implicated high government officials. Dean has still another version. He testified he was called by his lawyers at one in the morning and told that Petersen and the prosecutors were to meet with Kleindienst at 2 am, because "the attorney general was being summoned to the President's office the next morning to discuss the entire matter." Dean traced this heightened interest in the case to his alerting of Haldeman and Ehrlichman to their own criminal liability.

The President did meet with Kleindienst and Petersen on Sunday April 15. According to the White House log, Petersen submitted a memo on Ehrlichman, Haldeman and Strachan. (The contents of that document have not been disclosed but would make interesting reading, next to Nixon's April 30 statement that he had no information on any wrongdoing by his two top aides.) That afternoon Ehrlichman summoned Dean for a meeting but Dean refused. Instead he sent

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a note to Haldeman that evening saying he would meet only with the President to explain his actions—now that they all knew what he had been telling the prosecutors.

Forty-five minutes later, shortly after 9 pm, Dean and the President were in the latter's Executive Office Building hideaway. Dean believes the President recorded their conversation, or so his lawyers had been informed by the prosecutors. In any event, Dean has testified that the President acted strangely, asked leading questions, and once went in a corner and spoke in low tones of his alleged offer of executive clemency as being a mistake. The White House log says the conversation focused on the President's advice that Dean go before the grand jury without immunity. Dean claims the President told him that "he did not want to do anything to hurt my negotiations with the government."

The meeting lasted almost one hour. The tape, if it exists, must be fascinating. Dean has shown himself cool, calculating and master of his opponents' weaknesses. He has lied when necessary and knows how to attack and to mislead. Both he and the President must have known on April 15 that one or the other would be very badly damaged by the path Dean had chosen to take. The former White House counsel's refusal before the Senate committee to directly attack the President, his soft characterization of Nixon's statements—while at the same time directly involving the President in the commission of crimes—show him the equal of his former boss, at least at the level they are now fighting.

If CREEP Filed a Tax Return

Revenuers vs. Republicans

by Mitchell Rogovin

Anyone with a working knowledge of the intricacies of the Internal Revenue Code and a passing knowledge of the financial flimflam pawned off by the Finance Committee to Re-elect the President as its stewardship of over $50 million, can't help smiling at the thought of the tax deficiencies dancing in the heads of at least some Revenue agents. Since it is not likely that the Finance Committee has filed or will be forced to file a federal income tax return, we are left with mere speculation as to what such a return might look like.

To begin with, the Nixon committee has a statutory obligation to file an income tax return. In 1967 the Department of Justice, in urging the Court of Appeals to force the Communist Party, USA, to file and pay its taxes, conceded that all political parties were subject to the filing requirements. The government's brief succinctly states: "Political parties are simply not exempt from income tax by statute, by regulation, or by ruling—public or private, published or unpublished." To the extent that any political party has taxable income, there is no statutory or constitutional exemption from the requirement that a return be filed and the tax be paid.

While gifts are not normally taxable income to the recipient, nothing was normal with respect to the manner in which Maurice Stans solicited and collected funds for the President's reelection. It has been alleged in the Vesco indictment that Robert Vesco contributed $200,000 to the committee with the understanding that he would be assisted in efforts to prevent the SEC from investigating his financial affairs. Should the facts support the charges, it would not be beyond the realm of possibility that someone at the Revenue Service would claim that the contribution was not a "gift." The IRS likes to trot out a definition of "gift" given it by the Supreme Court which speaks of "detached and disinterested generosity" as the core of a gift. The idea of Vesco making a $200,000 contribution, motivated by "detached and disinterested generosity," boggles the mind. The same demurrer must be asserted regarding the $442,500 contributed by the milk producers to the Finance Committee. Shortly after the "gift," the milk producers received a not unexpected increase in federal milk support prices.

Another source of income relates to the sale by the Finance Committee of appreciated securities that had

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been contributed to the committee during the campaign. Normally if a taxpayer makes a gift of appreciated property, property that originally cost him $200 and has a current value of $900, the donor is not subject to the capital gain tax. If, however, the recipient thereafter sells the property for $900, he is subject to a $700 capital gain tax. Even though this is the law with respect to everyone else, IRS strained and concluded it was apparently the case when the gift is to a political party.

During the '72 campaign the IRS formally invited interested parties to comment on this construction of the tax law, basing its request on the somewhat shaky assumption that all the receipts of political parties were gifts and therefore had no tax liability. Not only has this assumption been made without actual audit of any political committee but more important, without a clear understanding as to what would constitute gross income or deductible expenses for a political committee.

Perhaps the most fascinating area of speculation deals with what the returns of the individuals connected with Watergate and CREEP's other clandestine capers look like. James McCord, when testifying before the Ervin committee, indicated the first public awareness of the problem when, in response to a question as to how much he was paid for his efforts in behalf of the committee, he said that he had obtained an extension of time for filing his 1972 personal income tax return and that he foresaw some problems in determining what was income to him.

In 1961 Senator Everett Dirksen asked the IRS commissioner to spell out for him the tax treatment of political contributions to a political candidate and committee. The senator was told that it had long been Revenue's position that political contributions were not income to the candidate or the committee as long as the contributions were "used for campaign or similar purposes." Any diversion of the funds for other purposes would turn the silk purse of excluded income into the sow's ear of taxable income. The underlying theory was akin to a trust for the election of the candidate, and if a trustee used the trust funds for a purpose other than that of the trust, it would be taxable income to him. Under this theory, what would be the tax consequences for those described by GOP Treasurer Hugh Sloan, Jr., as "individuals in a custodial context"—the ones who received cash from the Finance Committee to Re-elect the President according to a recent GAO report:

► Taxpayer Gordon Strachan took $350,000 in currency from Herbert Kalmbach in early April 1972. Since no one apparently is in a position to say the money was used for CREEP's legitimate purposes, a presumption of tax liability to Mr. Strachan is appropriate.

► Taxpayer G. Gordon Liddy received, based on John Mitchell's authorization, $199,000 in cash in early 1972. The purposes to which Mr. Liddy put the cash are not known. Presumed taxable to Liddy.

► Taxpayer Herbert W. Kalmbach had $1.8 million in cash left over from the 1968 campaign and received $1.4 million from Hugh Sloan, Jr., in 1972 for unknown purposes. Presumed taxable to Kalmbach.

► Taxpayer Herbert L. Porter received a total of $100,000 in cash in 1972 from Hugh Sloan, Jr., for unknown purposes. Presumed taxable to Porter.

► Taxpayer Jeb Stuart Magruder ordered Hugh Sloan, Jr., to turn over cash totaling $300,000 to Messrs. Liddy and Porter and he himself ended up with $20,000. Presumed taxable to Magruder.

There are also two CREEP slush funds that have recently come to light and individual tax liability may well be asserted with respect to those who either dipped into the funds or had the opportunity to dip. John Dean III kept $14,000 in campaign funds and used $4000 to finance his wedding and honeymoon. If he exercised personal control over these funds and "borrowed" $4000 for personal use, the question becomes one of whether he had the intent to repay the so-called loan. Absent a *bona fide* loan, it is income to him. Maurice Stans on the other hand testified that he was given $50,000, left over apparently from the 1968 campaign, by Herbert Kalmbach for his personal use including a vacation. This would be taxable income to Stans and the fact that he subsequently returned a portion of the cash hoard to Kalmbach "for a special White House project" would only mean that Mr. Stans made an improvident loan.

Before it is all over some Revenue agent is going to want to know why there hadn't been tax withholding on the salaries of Donald Segretti, the Cubans and the unknown army of clandestine operatives that worked for the committee. The agent may, of course, be met with the argument advanced by CPA Stans that these operatives' services were merely contracted for and that CREEP doesn't have to withhold on amounts paid to second-story men when they are independent contractors. But if this is the case, were information returns filed? Similarly the Revenue agent may look for compliance with social security and unemployment withholding that the committee was required to take out of the paychecks of its second-story employees. It is problematic, however, whether the agent will ask to see if amounts the Finance Committee paid to the convicted felons qualified as a pension plan under the Internal Revenue Code of 1954.

Assuming CREEP has taxable income, it is entitled a deduction for all ordinary and necessary business expenses of reasonable amounts incurred in its business. This deduction side of the committee's hypothetical return provides an interesting dilemma for CREEP. Illegitimate activities of legitimate enterprises may still give rise to a business deduction unless the illegality is such as to frustrate "sharply defined public policy." Applying this to CREEP's expenditures in 1972-1973,

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the committee could probably deduct the cost of surgical gloves and tape. The bugging equipment, however, presents a less clear picture. Section 2513 of Title 18 of the US code provides for the confiscation of wire or oral communications intercepting devices. These expenditures, along with monies paid to the convicted defendants for their silence before the grand jury, would appear to frustrate a sharply defined public policy.

The red wigs, false IDs, tobacco pouches that have hidden cameras and other novelty items donated to CREEP by the CIA should be considered by IRS as capital contributions that are neither income items nor deductions.

The Internal Revenue Code also provides for the deductibility of amounts that were embezzled or mysteriously disappeared. It certainly could be argued that a substantial portion of the $1.8 million in currency turned over to Messers. Magruder, Stans, Haldeman, Porter, Liddy and Kalmbach has not been properly accounted for, and that it was either embezzled (spent for personal purposes such as honeymoons or vacations or on activities inconsistent with the legitimate purposes of a political committee) or that the amounts mysteriously disappeared. To claim such a deduction, the committee must be prepared to satisfy the IRS that there is no claim outstanding against Mitchell, Stans and the others who authorized the illegal expenditures, or that there is no real prospect of recovering the money from those who were the disbursing agents. This leads to the interesting dilemma: will the committee bring suit against those responsible for the improper disbursement of the contributions given to the committee?

It is apparent that the Finance Committee to Re-Elect the President is in moral bankruptcy and has been for some time. Under the circumstances the appointment of a trustee is in order. Upon appointment this representative of the thousands of contributors who sought the President's reelection through legitimate campaigning should place high on his agenda the filing of suits against the former officialdom of CREEP to recover the millions of misspent monies. For example the depositions taken in the Common Cause suit against the committee demonstrate that John Mitchell authorized the disbursement of funds for illegal purposes. Indeed Jeb Magruder, on Mitchell's warrant, told Hugh Sloan that Liddy had a blanket authorization to receive cash funds upon request. A suit against Mitchell and the others would be in the nature of a derivative suit in the name of similarly situated contributors seeking the return of the improperly spent funds. Whether such a suit was contemplated might be a good question for the mythical Revenue agent to ask CREEP.

The IRS has the authority to make an immediate assessment against CREEP if it believes that the tax owed is in jeopardy. In light of the fact that the 1968 Finance Committee Mr. Stans headed ended up with at least $1.8 million squirreled away in safe deposit boxes on both coasts and did not file a tax return for that or any subsequent year, that Mr. Stans is himself under indictment, and that suits have recently been filed by contributors for a return of their contributions, the IRS would not be without justification if it determined that the income taxes owed by the committee were in jeopardy and moved promptly to protect the revenue.

Finally a note on the tax liability of the contributor. The federal gift tax, a tax on the donor, has been avoided for years by all political contributors. Last year the IRS joined hands with the political fundraisers by "going along" with the concept of multiple committees as the recipients of the contribution. The structure of the tax gift provides for a $3000 exclusion for each individual gift. To take advantage of this bit of loose construction by IRS and save over one-half million dollars in gift taxes, a grown man like Clement Stone apparently sat down at his checkwriting machine and prepared some 700 checks for $3000 each, in order to pass $2 million, tax-free, to the President's reelection committee. The donors had a catalog of over 450 committees to choose from and made their checks payable to such organizations as:

- Americans United for a Moral Society
- Americans United for a Lawful Society
- Americans United for a Responsive Society
- Americans United for Political Moderation
- Responsible Leaders for Improved Government
- Responsible Leaders for a Balanced Society
- Responsible Leaders for a Stable Society
- Responsible Leaders for Reform in Society

One blanches at the thought of a responsible leader sitting down with a yellow pad and conjuring up names for more than 450 such dummy committees.

These organizations are so specious that they give sham corporations a bad name. At the taking of depositions in the Common Cause suit last fall, the chairmen of some of those committees were literally introduced to the treasurers for the first time.

Senator Ervin, having successfully undertaken to show the Department of Justice how to investigate a criminal conspiracy, has recently announced that his Watergate committee will take a look at how the Internal Revenue Service has administered the gift tax laws. The evidence of efforts on the part of donors and campaign officials of both parties to defeat or avoid the gift tax, is, as he will find, readily available.

Years ago, Mr. Justice Holmes referred to the federal income tax as the price we pay for civilized society. With all of its millions this is one commodity the Finance Committee to Re-Elect the President declined to pay, for preserving civilized society was not among its priorities.

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The Supreme Court's Latest Word on Obscenity

Sex at High Noon in Times Square

by Nathan Lewin

With the *hauteur* one might expect from an absolute and strict constructionist of the First Amendment, Justice Douglas announced in one of his dissents to the Supreme Court's five obscenity rulings of June 21, "I never read or see the materials coming to the Court under charges of 'obscenity,' because I have thought the First Amendment made it unconstitutional for me to act as a censor." Yet, exhibiting the puckish inconsistency which proves that his is no little mind, he observed in another dissent, "Most of the items that come this way denounced as 'obscene' are in my view trash. I would find few, if any, that had by any standards any redeeming social value."

"Never," of course, means "hardly ever." And one can appreciate that the justice's curiosity may have been piqued here and there by a flashy title or startling magazine cover, at least enough to warrant a conclusion that it was trash after all. There is, however, unintentional truth in the apparent contradiction. It takes no close examination of the exhibits that the Court has been forced to study over the last decade to conclude that there is not a *Ulysses, Lady Chatterley's Lover* or even a *Tropic of Cancer* among them. There was a time in this country's history of attempted censorship when the courts were being called on to decide whether Americans could legally buy, or bring in from a trip to Paris, works by Edmund Wilson, Erskine Caldwell, D. H. Lawrence or Henry Miller. Now the litigated issues are whether a deservedly anonymous paperback called *Suite 69* may be sold, whether advertisements for *Sex Orgies Illustrated* may be sent through the United States mails, and whether a "mature feature film" called "It All Comes Out in the End" may be publicly shown.

In light of this cheapened currency, the most striking aspect of the Court's obscenity decisions is not that a majority reached the result it did, but that the Court came very close to resolving the constitutional issues in favor of unfettered free expression. The final vote was the increasingly common 5-to-4, with all the Nixon appointees and Justice Byron White making the majority. Interestingly enough, the long dissenting opinions of Justice Brennan contain language and peculiarities of Supreme Court style that lend credence to the rumors that his views were, at one time before final positions were taken on the cases, shared by at least four others. Had Justice Brennan kept a majority of the Court, the decisions would have done for dissemination of "sexually oriented" material what the Court's rulings of last term did for abortion—that is, give it a constitutional shield that could be pierced or avoided only in rare cases. Instead, what the Court, speaking through Chief Justice Burger, has done is to announce a rule that substantially strips publications or films describing sexual conduct of constitutional protection in all but exceptional cases.

What has driven the Court to this battle of extremes? The principal forces apparently have been despair over its inability to establish a workable constitutional line between what is obscene and what is not and terror over the mounting volume of "trash" being thrust on the Court in these cases. The opinions of both Chief Justice Burger and Justice Brennan quote the late Justice John Harlan's reference to the Supreme Court's "intractable obscenity problem." Brennan's conclusion was that no other First Amendment issue "has, in recent years, demanded so substantial a commitment of our time, generated such disharmony of views, and remained so resistant to the formulation of stable and manageable standards" as the questions whether and how "sexually oriented expression" may constitutionally be regulated. It seems, in fact, that *all* the justices who have been on the Court over the past decade found that they were spending excessive amounts of time looking (or, in the case of absolutist Justices Black and Douglas, protesting that they need not look) at dirty pictures and books, and all were agreed that something radical had to be done to change the present state of things.

The reason the Supreme Court was, prior to June 21, devoting such an inordinate amount of its time to obscenity cases was that most of the justices believed that they had to make a constitutional judgment on every magazine, book, movie or film-strip presented to them. In each of the cases—which began to number in the dozens—it was claimed by the distributor or exhibitor that the material was not obscene in the constitutional sense, so that it was entitled to as much First Amendment protection as a political speech. A majority of the Court (in an opinion by Justice Brennan) had defined obscenity generally in the 1957 decision of *Roth v. United States*, and that majority had

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ruled that the form of expression so defined was not protected by the Constitution. Never again in the succeeding 16 years could five justices of the Court agree on the verbalization of additional standards, although shifting coalitions succeeded in encrusting on the rudimentary *Roth* definition a three-part test by which lower courts and juries were to decide whether a particular form of expression was obscene. The third of the tests—grudgingly accepted by prosecutors and lower courts because it was announced in a decision issued in the name of only three justices—was whether the material was "*utterly* without redeeming social value," or, put another way, "unqualifiedly worthless." On this basis, John Cleland's *Fanny Hill* (described by one historian as "the most important work of genuine pornography that has been published in English") was ruled nonobscene by the Supreme Court in 1965 because it had "minimal literary value." And the Court found itself forced to consider, on what the late Justice Black called a "case-by-case, sight-by-sight" basis, the tawdry exhibits in all the cases that followed. This was, as Justice Brennan observed, "hardly a source of edification to the members of the Court," and it required them to apply "inevitably obscure standards" that made it appear as if the Court was "merely second-guessing state court judges."

The 5-to-4 decision on June 21 reflected diametrically opposed views on how the Supreme Court could rid itself of this burden. The chief justice, who wrote the majority opinions in all five cases, believes that the answer lies in giving greater constitutional authority to states and localities to suppress, by civil actions or criminal prosecution, the distribution and exhibition of material that portrays sexual conduct. If taken literally, the new majority's constitutional rule is frighteningly simple—state law may prohibit printed or graphic portrayals of any sexual acts that cannot lawfully take place in public. "Sex and nudity," said Chief Justice Burger, "may not be exploited without limit by films or pictures exhibited or sold in places of public accommodation any more than live sex and nudity can be exhibited or sold without limit in such public places." The claim that free expression might be involved in a movie containing a portrayal of "ultimate sexual acts" (even if simulated) was rejected, because, in the chief justice's view, accepting that argument would necessarily mean that "a 'live' performance of a man and a woman locked in a sexual embrace at high noon in Times Square is protected by the Constitution because they simultaneously engage in a valid political dialogue." In short if you can't do it "at high noon in Times Square," state law can keep you from writing about it, selling pictures of it or showing it on a movie screen to a paying audience.

The sweeping prohibition is qualified, however, by the majority's new variation on the "unqualifiedly worthless" standard—if an otherwise bannable work, taken as a whole, has "serious literary, artistic, political or scientific value," it is still entitled to constitutional protection. How broadly this "serious value" test can be read is uncertain, but the chief justice's own illustration of its applicability leaves little breathing space for artistic fancy. Rather than cite classic novels or works of erotic imagination as example of material that has "serious value," the majority opinion mentioned only "medical books for the education of physicians and related personnel [that] necessarily use graphic illustrations and descriptions of human anatomy."

What is most wrong with the theory of the new majority's approach is revealed by its inability to look beyond the medical book example. To the chief justice and those who joined him, the new constitutional rule will resolve most, if not all, problems because it is directed "not at thoughts or speech, but at depiction and description of specifically defined sexual conduct." And in citing the state laws of Hawaii and Oregon as models of local legislation that could constitutionally be used to suppress obscenity, Chief Justice Burger describes them as "directed at depiction of defined physical conduct, *as opposed to expression.*" But the battle over censorship has raged for centuries because progressive views in each generation have recognized that expression, particularly of the artistic variety, may include frank portrayals of sexual activity. We had thought ourselves well past the era when the racy passages of *Ulysses* or *Lady Chatterley* or *Tropic of Cancer* would be viewed as anything less than "expression," no matter how graphic their depiction of sexual conduct. The new Court's emphasis on the conduct described in a book or movie threatens not only *Last Tango in Paris* but even the more commonly accepted works of the Jacqueline Susann and Harold Robbins variety. Can they, too, now be called to task for depicting sexual conduct and be expected to establish, in a court of law, that their works have "serious" literary value?

More important than the long-run viability of the Court's new theory is the immediate practical effect that its pronouncement is likely to have. The "trash" that has accumulated on the Supreme Court's doorstep was, of course, swept back down to the lower courts as a result of the ruling, and they may now send people to jail under local laws for having published, distributed or shown material that depicted "patently offensive" sexual conduct. The Court did not itself drive that final nail in the coffin; the chief justice and the four who joined him washed their hands of the problem by laying out the new guidelines and sending all pending cases back to the courts that had initially decided them for application of the announced principles. It seems that there will now be many who will suffer the fate previously reserved for Ralph Ginzburg, the controversial publisher of *Eros* magazine, who served time in prison because the Supreme Court

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chose his case to lay down a new rule of constitutional law which no one, including the prosecutors in his case, could have anticipated.

The unfairness to individuals involved in cases that are now in the courts is only a small part of the problem. Far more serious is the likelihood that the Court's decision will unleash efforts to suppress material that cannot be so quickly recognized as "trash." It is, after all, the difficulty in drawing a clear line between what is worthless and what has value that has made the obscenity problem "intractable." And it is the fear that prosecutors will overstep that boundary that led Justice Brennan to conclude that no definition can "carve out fully suppressible expression from all media without also creating a substantial risk of encroachment upon the guarantees of the Due Process Clause and the First Amendment." That is why he and the other three dissenters would have scrapped all regulation of obscenity except where minors were involved or where the material was thrust on unconsenting adults.

The danger of rampant suppression in light of the Supreme Court's decision is not ephemeral. A headline in *The Washington Post* two days after the decision read, "Prosecutors Laud Court's Smut Ruling." Eradication of "smut" is a popular cause, and no elected prosecutor (or one who aspires to elective office) can easily defy the zeal and vigor of the suppression-of-vice groups. Before June 21 prosecutors could turn back demands that they institute civil or criminal proceedings against a particular movie, magazine or book that was not demonstrable "trash" by pointing to court decisions that made success of such a prosecution improbable. Now the weapon is in the hands of the crusaders, who can argue that depiction of sexual conduct is no longer shielded by the Constitution and that a borderline case should be tested in the courts.

One of the most startling disclosures of the extensive study of obscenity and pornography made by the President's commission that submitted its report in September 1970 was that the cost of enforcing state and local laws against obscenity ranges, *conservatively*, between $5 and $10 million per year, and that federal enforcement costs between $3 and $5 million annually. The strongest argument in favor of Justice Brennan's views is the practical, nonconstitutional contention that enforcement of anti-obscenity laws is a huge waste of money and energy. Heretofore local prosecutors who sensibly made that judgment and determined that there were higher priorities for local police and government lawyers than visiting bookstores and movie theaters were also able to buttress their public positions by pointing to the low regard that the courts —led by the nine justices in Washington—had for obscenity prosecutions. The decisions of June 21 markedly change that mood.

Caught in the vise are those who are in the business of "expression"—book publishers, movie distributors and even booksellers. Chief Justice Burger's ruling leaves them at the mercies of hundreds of local jurisdictions. They must take account of not just the laws of 50 states and the District of Columbia, but of the ordinances and regulations of every municipality where their product may settle. The distributors of *I Am Curious (Yellow)*, which reportedly grossed $7 million in box office receipts but spent much of it in defending the film against scores of local proceedings, learned that it is a practical impossibility to market a film on a national basis if it can be threatened with prosecution in every local community. The same is obviously true of nationally distributed magazines and books. What is there now to prevent the institution of criminal proceedings in one or several small midwestern towns against the publishers of *Playboy* or *Penthouse* or against those who print or market Madame Xaviera Hollander's memoirs?

Because the Court has always been squeamish about "prior restraint" of speech, it has discouraged procedures under which civil suits are brought to suppress a book or movie. As a result, those who are in the business of disseminating books, magazines or films often have no way other than criminal prosecution under local law of finding out (even if they are prepared to hire lawyers) whether their product violates the local community standard of decency. The legitimate distributor, bookseller or movie theater owner is seldom ready to go to jail for selling a book or showing a movie. If there is a real risk that he may suffer the stigma and punishment of a criminal conviction, he will choose—as most ordinary citizens would—not to stock the book and not to run the movie. And so the Court majority's new rule—which encourages prosecutions under local laws and does not require, as Justice Douglas now would, that any criminal prosecution be preceded by a civil judgment that a work is "beyond the pale"—creates a serious danger of self-censorship, at least by those who would not be comfortable as defendants in criminal cases.

One senses in Chief Justice Burger's opinion a certain wistful longing for the simpler Victorian era, when sexual conduct was not discussed in polite company and not tolerated in the respectable book-publishing business. "There is no evidence, empirical or historical," said the chief justice in a startlingly revealing aside, "that the stern 19th century American censorship of public distribution and display of material relating to sex in any way limited or affected expression of serious literary, artistic, political, or scientific ideas." Whether the chief justice took account of the long-suppressed scatological works of the period, including some even by the author of *Tom Sawyer* and *Huckleberry Finn*, we do not know. But it would be remarkable, indeed, if what could be publicly said by novelists and filmmakers about today's society were ruled by the standards of Anthony Comstock's period.

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Stanley Kauffmann on films

The Hireling

(Columbia)

Cutting Note

The peasant-and-princess sex relation is one of the oldest themes in literature—from the *Arabian Nights* through Middleton and Strindberg and Hamsun and Lawrence to the English novelist L. P. Hartley who, in his own scale, dealt with it in *The Go-Between* (1953) and *The Hireling* (1957). The former was filmed two years ago by Joseph Losey, not really well; now a film of the latter comes along and is in almost every way much better. In my dissenting view (from most views I've read), it's a very good use of the very old theme.

We're in the past again, not 1900 as before but the early 1920s. No revenant boy, no mysticism, no "curse" as in the earlier film, just a small, implicative tragedy. Sarah Miles plays Lady Franklin, a recently bereaved young widow, grieved to the edge of mental derangement. When we first see her, she is just being released from a (luxurious) mental hospital. Her mother has sent a rented limousine and liveried chauffeur to bring her home to Bath. As this first sequence unfolds, the neck and uniformed back of the chauffeur become a man named Leadbetter, played by Robert Shaw.

He is strong, resourceful, reserved, an ex-sergeant-major, very mindful of his place, giving and exacting respect. She is weak, pathetic, dignified, soft, very responsive to his male competence, yet without sexual reaction. That difference is the drama. Subsequently she employs Shaw frequently, to drive her about, sometimes merely to the country on outings and picnics. She makes no sexual move toward him, and she's not restraining herself; she merely needs his strength and company. He makes no move toward her and, in the early stages, he isn't restraining himself either. He simply enjoys the use she is making of him, besides being glad to build up his car-hire business. His only courtship of her, quite oblique, is to tell her, in answer to questions, that he has a wife and children (we know he lives alone), because he thinks it's what she wants to hear.

Time brings her recovery, her rekindled interest in society; and brings him disaster. He has fallen in love with her, and seethes with rage and jealousy when she is attracted to a young politician of her set, particularly when Shaw knows that the young man has another woman. Chauffeuring Miles one day, Shaw kisses her and tells her he loves her. She is upset, frightened, sad, unresponsive. Soon after, he gets drunk and bursts into her home one night; he confronts her and her fiancé in a melodramatic "exposure" scene (about the young man's affair). It fizzles, and not just because the facts are irrelevant. When Shaw sees how and why he has failed, he drives drunkenly home and in the courtyard of his garage, drives drunkenly back and forth, smashing into other cars with his Rolls-Royce. As he is smashing away, committing a form of suicide, the picture ends.

At least five elements make this film extraordinary. First, Wolf Mankowitz's screenplay. I won't detail the differences between Hartley's novel and his work, except to say that the screenplay is much more interesting, particularly the treatment of Lady Franklin and the elimination of Hartley's self-sacrificial ending. Mankowitz's script is remarkably simple, inevitable, compact.

Michael Reed's color photography is a relief in these lush Laszlo Kovacs-Vilmos Zsigmond days. Reed captures the English colors, the English air, subtly and helpfully: the lovely damp friendly feeling of the ride back from the hospital, the golden lights in doorways welcoming people out of the weather, all this and much more very choicely and endearingly handled.

Alan Bridges, the director, newly out of British television, wants to serve the work, not aggrandize himself. There are no supposedly overwhelming effects, no drowning in period sauce à la Losey, although every legitimate detail is legitimately used. Bridges unfolds his story as cleanly as it is written, with a nice eye for peripheral action of minor characters and a tacit fulfillment of ideas. (A large cut stone on her doctor's desk fascinates Miles; no explanation. Later, just in passing, we see a collection of stones made by her husband.) Bridges uses windows as a nice symbol of vision that is distanced: the other patients are glimpsed through the hospital windows, and this is echoed by a figure in a window of Miles' house when she returns. Miles herself is glimpsed through windows by Shaw outside, as she descends the stairs of her great house. (Incidentally this is actually the house of J. Paul Getty, who lent it for the film.) And there is Bridges' work with his actors.

All the praise above, and more, is well deserved; but this picture would not *exist* without its two principal performances. I haven't seen Miles' recent films, *Ryan's Daughter* and *Lady Caroline Lamb*, but out of such past work as *The Servant* and *Blow-Up*, I've had very mixed feel-

(continued on page 33)

Films Worth Seeing

The Discreet Charm of the Bourgeoisie. Luis Buñuel, seventy-something and something to marvel at, plays slyly with middle-class corruption.

The Friends of Eddie Coyle. Underworld sociology that *looks* all wrong—soft and mushy—but has gritty dialogue. Robert Mitchum solid as criminal prole.

Last Tango in Paris. A lot of it is adolescently stark and sententious, but the early Brando-Schneider sex scenes are powerful.

Memories of Underdevelopment. Fascinating, sensitive Cuban film about a bourgeois intellectual in the first days of the Castro revolution.

Payday. The last 36 hours in the life of a country-music star, played pungently by Rip Torn. Pleasantly different from some recent pretentiousness, it's more serious than it seems.

State of Siege. Fictional re-creation of the Tupamaro abduction and murder of an American official in Uruguay, 1970. Questionably objective, but generally gripping.

A Touch of Class. Old-fashioned comedy-romance, up to date. Mostly fast and frivolous. George Segal good as Yank in London, Glenda Jackson shows dazzling light-comic range.

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Robert Brustein on theater

Back to the Wilderness

London

The Open Theater, first and foremost among the American performing groups that flowered in the '60s, is back in London for a brief period. After its return to the United States for a final tour in the autumn, it plans to disband. There is sadness in this announcement, and some cultural significance too, for the history of this innovative troupe has spanned—and in certain ways reflected—a period of great turbulence in the United States.

My own experience of the Open Theatre goes back 10 years to the time when the company first exposed its experiments to an invited audience in New York's Martinique Hotel. I remember feelings of respect, tempered with puzzlement and a little apprehension. I admired the discipline with which American actors were completing difficult physical and vocal tasks, but I was puzzled by the apparent irrelevance of these abstract exercises to any coherent artistic purpose, and vaguely dismayed by the oddly dehumanized quality of the sounds and gestures. With the production of *America Hurrah* in 1967, however, the purpose of the experiments seemed to become clear, for the mechanistic style of the Open Theatre acting proved admirably suited to Jean-Claude van Itallie's vision of American society as a brutalized machine. In that moment, the American theater enjoyed a synthesis of writing and production that had not been equaled since the early days of the Group Theatre.

So compelling was this work, in fact, that for a while it looked as though our theater was poised on the brink of a genuine renaissance. Alas, that new birth was soon to be aborted by the continuing savagery of a senseless war and by its deteriorating effect upon an increasingly desperate society. In the theater, this effect could be seen in the chaotic, mindless, arrogant antics of the many radical groups that followed in the Open Theatre's wake—in the opportunism of Schechner's Performance Group, in the O'Horganized calisthenics of La Mama, in the audience manipulation of the Living Theatre and, not least of all, in the revolutionary playacting performed on the stage of the university in the form of endless disruptions, occupations and confrontations.

Virtually all of these groups (the radical students excepted) had mastered the physical control and technical discipline that distinguished the work of the Open Theatre; but most of their presentations, though offered as a healthy response to the diseased American imagination, looked more like a symptom than like a cure. In particular, the Living Theatre returned to the United States in 1968 (having spent some years in European exile after a brilliant early career) flaunting the same repressive, irrational, vaguely totalitarian qualities as the country that had originally caused its departure. And flaunting a similar Philistinism, too, since it was now rejecting any theater that had not evolved from the personal experience of the company, and substituting sensationalism, anti-intellectualism, self-righteousness and a disguised but ravenous hunger for publicity.

During this depressing time, the Open Theatre (under the tireless, almost monastic supervision of Joseph Chaikin) remained devoted to the development of its artistic process, and to its announced goal of "making visible the human situation at a time 'when things could be different.'" Implicit in this statement was a social-esthetic concern for inventing theatrical metaphors that would accurately mirror the American condition; implicit also was a muted political activism which was to find expression not so much in didactic works as in underlying sentiments, in the choice of subject matter rather than in exhortations to action. Still, if the group never again managed to realize the promise of *America Hurrah* except in fits and starts, it may have been for a political reason—its obsession with the "collective" which prevented the group from subordinating its interests to the "autocracy" of a single informing mind.

In *America Hurrah*, the Open Theatre was able to bring a developed technique to an already-written text, as the Moscow Art Theatre did to *The Seagull;* but in most of its succeeding productions, the writer was treated simply as another citizen in a democratic state where everybody contributed equally. The result was the evolution of group activity without an overview—scattered fragmentary moments that lacked a formal imagination to give them direction and point. This approach was no doubt eminently satisfying to the performers, and unquestionably created intense feelings of loyalty to the group. But what makes a person happy in his work is not the same as what makes the work happy; and the fact is that actors, no matter how gifted, are not prepared to create as well as to enact harmonious and meaningful plays. The dancer had begun to confuse himself with the dance; the company's unity of style was paid for in the coin of self-indulgence, disjointed scenes and grab bag moments.

The defects and the virtues of the Open Theatre are now on view in a three-work cycle beginning with the "collective creation" called *The Mutation Show.* This show demonstrates once again that the Open Theatre is a well-coordinated organism; but the evening is so lacking in any formal coherence that even its 60-minute length seems a little tiresome. *The Mutation Show* propels eight actors onto the stage in various degrees of spasm, epilepsy, aphasia and cretinism, and proceeds to identify them as circus sideshow freaks (The Bird Lady, The Man Who Smiles, The Man Who Hits Himself, The Petrified Man, etc.). What follows is not so much the development of this idea as its extension—or rather, its *mutation*—as the characters transform themselves into various species of grotesques, sighing, wheezing, screaming, groaning and straining their bodies into several distorted shapes.

Occasionally, a coherent idea breaks loose from this freak show, or an interesting image: one actor emerges from a box, sightless and covered with uterine blood; the whole ensemble performs a spasmodic wedding dance to the "Anniversary Waltz" which a caller turns into a capsule history of the last 10 years ("The bride is now dancing with the mother of the groom . . . The President is now dancing with his assassin . . . The oil men are now dancing with the Vietnamese"). But the ideas seem rather banal, and even a few years out of date (odd for a company so devoted to process), when they don't appear to be looted from better

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works.

The spirit of Peter Handke seems to hover over this piece, particularly in an episode involving an "animal girl" who, like Kaspar, is wrenched from an innocent state and mutilated by language ("We will name her. We will give her words. We will strengthen her bones. We will caress her"), but the assumption that society destroys instinct by means of speech seems no less sentimental here, where it even lacks Handke's form and eloquence. An unmistakably serious and intense evening, yet one that rarely transcends a certain self-satisfaction with its own technique.

In *Nightwalk*, the Open Theatre boasts of the participation of three good writers—Sam Shepard, Jean-Claude van Itallie and Megan Terry—but since the performance contains very little coherent dialogue, it is likely that their contributions were voted down in the last general elections. Occasionally a line or two breaks free above the din of bleats and chicken noises (typical example: "You are the absence I have lived with always"), but they are generally too pretentious to be quoted without blushing. This "work-in-progress" was begun as an exploration of "the levels of sleep," but aside from a few characters taking snoozes on the stage, and another saying "Gottagetgetgetget—gottagetgetgetup," it seems only faintly connected with the unconscious.

There is some unity created through the design, as the cast is rolled on stage from behind a screen on wheeled trolleys, reminiscent sometimes of medieval mansions, and sometimes of the chairs with which inmates are pushed around the grounds of a madhouse. There are a considerable number of animal exercises, idiot noises, calisthenics, a little singing, a snatch of poetry, some obscene clowning—and some of this is funny—but too often the cast reminded me of gifted kids doing prepared pieces in front of company. And there is a note of intolerable superiority about some of the scenes, particularly a satire on bourgeois table conversation which comes off like Jackie Gleason's Honeymooners being performed by autistic children. In short the Open Theatre used to provide us with images of American society in disintegration; now these metaphors seem to be disintegrating, too, thus proving that we're all in this thing together.

The Blank Now

The Dolphin; History; For Lizzie and Harriet
by Robert Lowell

(Farrar, Straus & Giroux; $6.95, $7.95, $6.95)

Halfway through *The Dolphin*, the poet wonders:

> Should revelation be sealed like
> private letters,
> till all the beneficiaries are dead,
> and our proper names become
> improper Lives?

Dispiriting as it is for those of us who consider Lowell to be our most important contemporary poet to admit it, the answer to this tentative question can only be a resounding Yes. For in this volume Lowell no longer quite succeeds in transforming his life into art, and his revelations, sometimes embarrassingly personal, sometimes boring, should indeed have remained "sealed like private letters." Here, if anywhere, the famed confessional mode, inaugurated by Lowell's beautiful *Life Studies* of 1959, reaches its point of no return.

The Dolphin is a continuation of the *Notebooks*, published in 1969 and '70. The verse form is still the loosely structured, unrhymed blank verse sonnet; the poetic method, a diarylike notation of whatever persons, places or incidents the poet happens to be thinking about as he sits down to the typewriter. But whereas the *Notebooks* made use of the seasonal cycle to organize the "march of events" in one year's life and thus gave one a keen sense of a particular moment in history in a particular place, *The Dolphin* goes back to the late Victorian tradition of Rossetti and Meredith in being a cycle of love sonnets with a full-scale plot. And the plot is sheer soap opera. Somewhat like an inverted *Our Gal Sunday*, it revolves around the question: can this famous middle-aged poet, twice married and the father of an adoring teenage girl, find happiness as the husband of an attractive, well-heeled, titled divorcée, 15 years his junior and the mother of three children? The answer, predictably enough in the context of Lowell's pervasive sense of despair, is no. Trapped by memories and bombarded by reproaches from his second wife Elizabeth, the poet can only move uneasily "From the dismay of my old world to the blank/ now."

The sequence begins with Lowell's arrival in London. Relieved to have escaped New York but vaguely uneasy among the Victorian bric-a-brac of Redcliffe Square, he renews contact with Caroline, the warm-blooded but slippery dolphin of the title, whom he first met in 1966 when she was pushing her three babies in the stroller across Washington Square, "all four of you in Bloomingdale polo coats." Briefly hospitalized, he comes to depend more and more on her affection, but reproachful letters from Elizabeth spoil the fun, reminding him that she needs money, that daughter Harriet feels abandoned, that when they tried to play his poetry recordings, "It was like hearing/ the voice of the beloved who had died." An old friend cautions the poet not to jump into a third marriage, and Caroline herself has some doubts because of her children. But the affair continues, Caroline becomes pregnant, they marry, and during a long hot summer at Milgate, her Jacobean country estate, she gives birth to Robert Sheridan Lowell. The placid summer idyll continues, punctuated by the daily headaches of caring for the new baby, by guilt feelings about Lizzie and Harriet and by frequent thoughts of death. Finally, in "Flight to New York," the poet briefly escapes to Manhattan, the scene of his "crime," and goes through the motions of a family Christmas. The sequence ends with a tribute to Caroline, the Dolphin who knows how to "guide me by surprise," who sustains him in his

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fitful wanderings.

Possibly this familiar triangle could be made interesting, but Lowell seems too close to his material to view it from any meaningful perspective. The poet himself emerges as troubled, ambivalent about his values, passive and quietly alcoholic. Caroline of the "Alice-in-Wonderland golden hair" and mermaidlike "conjunction of tail and grace" remains throughout a rather vague presence. By contrast, it is Lizzie who becomes the dominant figure in the sonnets, and she is depicted, perhaps unwittingly on Lowell's part, as Dark Lady or Super-Bitch par excellence. In her letters and phone calls, she is forever patting herself on the back for running to Dalton to pick up Harriet's grades or driving her to camp, and she dwells irritatingly on Harriet's goodness:

> She is normal and good because
> she had normal and good
> parents. She is threatened of
> necessity. . . .

or

> She's absolutely beautiful, gay, etc.
> I've a horror of turmoiling her
> before she flies
> to Mexico, alone, brave, half
> Spanish-speaking.

or blandly telling Caroline:

> I have told Harriet that you are
> having a baby
> by her father. She knows she will
> seldom see him;
> the physical presence or absence
> is the thing.

Poor Harriet emerges from these passages as one of the most unpleasant child figures in poetry; only Hopkins' Margaret, grieving over Goldengrove unleaving, can rival her cloying moral virtue. It is therefore difficult to participate in the poet's vacillation, for Lizzie and Harriet seem to get no more than they deserve. And since these are, after all, real people, recently having lived through the crisis described, one begins to question Lowell's taste.

It can be argued of course that Lowell's confessional poetry was always built around his closest relatives. But whereas in a poem like "Man and Wife," Lowell uses the figure of Lizzie only as stimulus for the poet's ironic self-portraiture as archetypal Boston Brahmin neurotic artist, in *The Dolphin*, the personal emotions remain unfocused, unprojected. Here, for example, is the opening of "Knowing":

> This night and the last, I cannot
> play or sleep,
> thinking of Grandfather, in his
> last poor days.
> Caroline, he had such naked nights,
> and brought his *tortures of the*
> *damned* to breakfast—
> when his son died, he made his
> grandchildren plant trees;
> his blood lives, not his name . . .
> We have our child,
> our bastard, easily fathered, hard
> to name. . . .

This is the language of ordinary, straightforward prose, abstract and denotative. The complex web of realistic images and evocative proper names that characterized the *Life Studies* poems is replaced by flat statement: "I cannot play or sleep," "We have our child." The lines give us no particular image of the speaker; he is simply what Yeats called "the bundle of accident and incoherence that sits down to breakfast," a real-life Lowell addressing his real-life wife. Such facile ironies as "easily fathered, hard to name" cannot obscure the poem's basic self-indulgence, its failure to show rather than tell. No doubt the poet's anguish is perfectly genuine, but it has no context; one cannot relate it to anything beyond its disembodied presence.

I have always had reservations about the unrhymed blank verse sonnet, which has been Lowell's only verse form since *Notebook 1967-68*. In an interview for *The Review*, Lowell praised it as a roomy stanza that "can say almost anything conversation or correspondence can." This is exactly the problem. Most of the "sonnets" in the *Notebooks* and even more in *The Dolphin* are no more than amorphous containers into which the poet stuffs just about

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NOTES ON CONTRIBUTORS

MARJORIE PERLOFF, *who teaches at the University of Maryland, has written* The Poetic Art of Robert Lowell, *to be published this month by Cornell University Press.* LAWRENCE OLSON *teaches history at Wesleyan University, has published two books on Japan and a book of poems.* JAY MARTIN *teaches at the University of California, Irvine.* PHILIP BOOTH'S *most recent book of poems is* Margins *(Viking); he teaches at Syracuse University.*

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anything he pleases. After moving fitfully along for 14 lines, the given sonnet arbitrarily grinds to a halt, although nothing about the articulation of its parts has prepared us for the terminus. Indeed, it is not surprising that when Lowell came to revise the *Notebook* sonnets for his two other new volumes, *History* and *For Lizzie and Harriet*, he often combined part of one sonnet with part of another without anyone, least of all the poet himself, seeming to notice the difference.

This brings me to a consideration of Lowell's revisions. *For Lizzie and Harriet* contains, in revised and rearranged form, what may loosely be called the "love poems" of the *Notebooks*. *History* incorporates the remaining *Notebook* poems, again in revised form, and adds 80 new topical sonnets. The organization is now chronological: *History* begins with Biblical themes and ends with Lowell's most recent history, the book's final sonnets thus overlapping with those in *For Lizzie and Harriet*.

Future bibliographers will have a monstrous time with these books. Since neither the *Notebooks* nor *History* have alphabetical indexes, it is often difficult to find which *Notebook* poem turns up where in the new volumes. Titles have been changed, sequences altered, lines from one poem stuck in the middle of another, and it takes a good bit of detective work plus some simple arithmetic to figure out that everything in *Notebook* (1970) is used again somewhere in the two "new" volumes.

In itself, this procedure is perfectly acceptable. Lowell, as Stanley Kunitz has said, "doesn't so much write his poems as rewrite them . . . he is never done with a poem." The impulse to rework and improve a poem is surely admirable—Yeats, say, did it all the time—but the depressing truth about the revisions in *History* and *For Lizzie and Harriet* is that they almost invariably make the poem in question less effective. Consider what happens to "In the Cage." This well-known poem first appeared in *Lord Weary's Castle* (1946), then in revised form in both *Notebooks*, and finally with major changes in *History*. (See the first and fourth versions below.) One can understand that Lowell wanted to get rid of the embarrassing reference to the "colored fairy," but "felon fairy" with its cute alliteration is hardly better. Most of the revisions move in the direction of clarity: the "hall" becomes a "messhall," the "tunnels" the "prison-cellar," the "blues" are now explicitly "dinner-music blues," and the "Bible-twisting Israelite" is clearly labeled an "anti-Semite," feasting not "for his Harlem" but, more vaguely and abstractly, "for religion." Just as the racy diction of the 1946 version gives way to the less urgent mode of the new one, so the insistent four-beat line of the first is dissipated in such slack, prosaic rhythms as in the line:

stárving on whéatsêeds fór relígion

The revision of the last three lines is particularly disappointing. The portentous switch to the first person and insistence on being blamed ("I am night, I am vanity"), the abstract moralizing of "The cage/ feeds our failed nerve for service," and the repetition of the word "cage" at the end of the poem where a clinching rhyme seems more in order, undercut the drama of the earlier prison poem. In this connection, perhaps the most unmotivated change of all is from "The lifers" to "We short-termers" in the opening line; what is originally viewed as a general condition becomes a transient, personal situation, devoid of urgency.

Comparing the two versions, one concludes that at best there seems to be no point in going through it all again; at worst a good poem is spoiled. I feel the same way about the transformation of the "sundisk clock" of "Rebellion" into the coyly Yeatsian "phases of the moon" in the revised version of this poem entitled "Father," and when Lowell, describing the suicidal night of Randall Jarrell, changes the line, "as you clasp the blank coin at the foot of the tunnel" to "as if in lockstep to grasp your blank not-I," I wish he had let well-enough alone.

In one of the *Dolphin* sonnets, the poet says, "I haven't stilled my New England shades by combing/ the Chinese cowlocks from our twisted garden," and Lizzie at one point calls London "the closed provincial metropolis, never/ an asylum for the mercurial American mind." In such moments of self-insight, the poet seems to sense his current impasse. Lowell is, after all, our great contemporary American Puritan poet, the lyric historian of "91 Revere Street" with its glacial Sunday dinners and Commander Lowell's lettered garbage cans. The intricacies of modern divorce, erotic love and the pastoral settings of rural Britain—these have never been congenial themes for Lowell. One hopes, therefore, that next time around he will have thrown to the winds the pseudo-sonnet along with its pseudo-love theme and will recast his vision of America in a form as original and unpredictable as that of *Life Studies*, which appeared eight fallow years after *The Mills of the Kavanaughs* and became overnight a milestone in the history of 20th-century poetry.

Marjorie G. Perloff

In the Cage

from *Lord Weary's Castle*

The lifers file into the hall,
According to their houses—twos
Of laundered denim. On the wall
A colored fairy tinkles blues
And titters by the balustrade;
Canaries beat their bars and scream.
We come from tunnels where the spade
Pick-axe and hod for plaster steam
In mud and insulation. Here
The Bible-twisting Israelite
Feasts for his Harlem. It is night,
And it is vanity, and age
Blackens the heart of Adam. Fear,
The yellow chirper, beaks its cage.

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from *History*

We short-termers file into the messhall
according to our houses—twos
of bleaching denim. A felon fairy
tinkles dinner-music blues,
blows kisses from his balustrade;
a canary chips its bars and screams.
We come from the prison cellar . . .
spade,
pickax, hod for plaster, steam,
asbestos. To the anti-semite
black Bible-garbling Israelite
starving on wheatseeds for religion,
I am night, I am vanity. The cage
feeds our failed nerve for service.
Fear, the yellow chirper, beaks its cage.

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A Litany of Remembrance

The Fatal Gift
by Alec Waugh

(Farrar, Straus & Giroux; $6.95)

Early in *The Fatal Gift* the narrator explains to the leading character, who is at work on a novel: "It takes quite a while to build up a public. A first book attracts critical attention. 'This is a writer to be watched,' they say. Then there's a second, and they say, 'Mr. So-and-so is fulfilling the promise of that excellent first book.' And his sales go up. Then there's a third and a fourth. The reviews may not be as good . . . But the sales keep mounting." In one particular this explanation does not accurately describe Alec Waugh's career, since his first book, *The Loom of Youth* (1917), was an immediate success and has never gone out of print. But it aptly characterizes the history of critical commentary on his work. By the time he had published four or five books the reviewers were becoming dissatisfied. His good qualities, it began to appear, were his fatal gift. He could neither improve much upon them nor give them up. How could he satisfy the reviewers' desires to see each novel advance upon its predecessors when in his first work he had disclosed his talents fully developed? Now, even when he is praised, it is usually only as a chronicler or anecdotist of an intimate and gossipy, floating, fluffy world of manners.

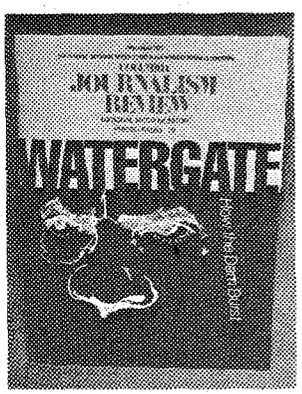
His most recent work is a kind of synthesis of the kinds of writing he has done for the last half-century: it is at once fiction, travelogue and autobiography. In a foreword he makes clear that "the narrator, the 'I,' is myself" and that other real characters appear in profile, while the main figure, Raymond Peronne, is fictive. With comments on his earlier work, the influences upon him, his brother Evelyn and so on, Waugh synthesizes his career here. Though one should not say that Raymond Peronne is Waugh's emblem for his own works, certainly Peronne's several gifts all appear to be fatal. First of all, he is born of an obscure but affluent English peer; but he is a second son, made aware that his father's hopes (and title) are destined for his older brother. Even when Michael is killed in World War I, it turns out that his recent bride has conceived a son, so that the special attentions reserved for Michael leap over Raymond to the son. Also, because Raymond has money, he is not forced to seize opportunities and so overstays occasions when he could have acted. And because an amorous aunt gives him elaborate lessons in the art of sexual love he is spared the confusions and humiliations of the homosexual experiments of English public school life. Several attractive females pursue him, and at the beginning of their affairs they all say the same: he is easy to be with, natural and undemanding. But before long they all leave him; his gift of sexual ease has robbed him of the excitement of sexual tension. His charm is his greatest gift, but his manner is so easy that it is often mistaken for indifference. Finally, when his nephew is killed in World War II, Raymond comes in line for the title. But this fact prevents him from initiating a career after the war, since he would have to give it up upon the death of his father. Withal, it is no wonder that Raymond chooses to live on the remote West Indies island of Dominica.

One of the eccentric residents of Dominica remarks of a mango tree planted too high in the mountains to bear: "It's enough to be beautiful; there's no need to bear fruit as well." But none of Raymond's contemporaries are inclined to take this view of him. "He really could have done anything," the narrator remarks again and again. When so much is expected, nothing he does seems good enough for him. His friends wait long for his fruit to appear, and wait in vain. All the qualities that Waugh's critics have discerned in his books—grace, fluency, wit, charm, attractiveness, style—are abundantly in Raymond; and like Waugh's reviewers, Raymond's friends are curiously perplexed in finding him wanting.

It is not that Raymond does not *do* anything. Besides love affairs in Oxford, London, Villefranche, Cairo and Dominica, he is ceaselessly on the move: he

THINK OF WHAT JUST ONE PERSON CAN DO TO STOP POLLUTION.

SPECIAL INVITATION



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starts a novel, is featured in scandal sheets and rusticated from college, reads Victorian poetry beautifully, mechanizes the agriculture of Dominica, serves in the war, publicizes Dominica, makes a speech in the House of Lords and defies gri-gri. But with the possible exception of the last, none of these earns his friends' respect, since what they suspect all along is that he *is* nothing. Few people are willing to be with Raymond except in crowds: to be alone with him, they fear, is to be alone. Even his mistresses seek out company at crucial moments, secretly afraid that Raymond will be incapable of recognizing, much less responding to, crisis. After three years of marriage, his wife explains, she knows how he will behave: "But how he felt, now that's another matter . . . I never know how he feels."

But there is more to Raymond than his manner, just as there is more to Alec Waugh's talent for fiction than a capacity to depict the genial surface of events. What they have in common is a passion to relive the past, a self residing in its burning memories. This volume is a litany of remembrance, and enables us to see something of the being which Waugh's talents have obscured. By bringing together autobiography and fiction he lets us glimpse his hidden passions. Byron beautifully translated Filicaja's sonnet when he wrote in *Childe Harolde:*

> Italia! oh Italia! Thou who hast
> The fatal gift of beauty . . .
>
> Oh, God! that thou wert in thy
> nakedness
> Less lovely or more powerful . . .

No one would deny how much *The Fatal Gift* resembles Waugh's earlier novels. Yet in it he sacrifices loveliness for power and begins to achieve a gift of beauty not fatal to the novel.

Jay Martin

Reconsideration

Willa Cather's *Song of the Lark*

In 1904, when she was 31, Willa Cather wrote a short story, later much anthologized, called "Paul's Case," about a poor high-school student in Pittsburgh who rebelled against the stupidity of his teachers and parents, mooned around art galleries and theater balconies, stole from his employers, fled to New York to spend the money on clothes and concerts, and when it was gone and the police were closing in, threw himself under a train in the Jersey meadows. Totally unpolitical in tone, the story implied that something was very wrong with American society and the Pittsburgh school system, as well as with Paul, whose "case" may have been pathological to a degree.

The Song of the Lark
by Willa Cather
Originally published in 1915
by Houghton Mifflin Co.
Now available from
Houghton Mifflin,
$5.00 cloth and $2.65 paper

Willa Cather today is remembered chiefly for her two tales of life among Scandinavian and Bohemian immigrants in Nebraska, *O Pioneers!* and *My Antonia*, and for her historical novel of the Southwest, *Death Comes for the Archbishop*, which, as she wrote me in a letter in 1946 shortly before her death, "has been made into sort of a guidebook down there." However, her most deeply felt theme had been sounded in "Paul's Case"; again and again she returned to the vision of aspiring youth, the pressure of its demands on life, the price paid for their achievement, and the dying fall of the years that follow. Youth's urgency, pure and coarse at the same time, she took as a romantic, often sentimental subject, which produced the closest thing to passion in her writing but also set limits on her imaginative power and narrowed her range as a novelist.

The two prairie books were set-pieces that did very well to establish her reputation as a regional writer, and this was what she was to remain in the public mind to the end. Yet however effective *O Pioneers!* and *My Antonia* may have been as vignettes of immigrant life, their characters do not develop over time in very necessary ways; they are momentarily vivid but easily forgotten; and there is every evidence that Willa Cather was not satisfied to depict only monumental frontier types, earth-mothers like Antonia Shimerda or Alexandra Bergson. As early as 1915, in her third novel, *The Song of the Lark*, she attempted to transcend the limitations of a local colorist, to chart the arc of a life that began on the prairie but escaped from it eastward into the world of "culture" in New York and Europe. The effort failed; her failure, as she herself realized, lay in her inability to write convincingly about the life that followed youth in an urbane environment. As in "Paul's Case," she took refuge from adulthood in art, but unlike Paul, Thea Kronborg, the heroine of *The Song of the Lark*, lived on and became a woman, and the thinness of Willa Cather's conception of her as a woman, which may have derived from the author's own inexperience, was also in some way connected with her profound alienation from, or her reluctance to engage in her fiction with, the complications of the modern spirit.

The Song of the Lark begins around 1890 in Moonstone, a small town in northern Colorado, where Thea Kronborg is one daughter in the large family of a Swedish preacher. Everyone else in the family is commonplace, and the town is full of commonplace "characters": a GP who reads Balzac to fight off boredom; glamorized Mexicans in their ghetto across the tracks; and railroad men (like most of Willa Cather's books, this one is permeated with the smell and sound of the railroad era, the plush parlor cars, freight sidings and water tanks, and the trainmen in their caps and buttons). Moonstone is familiar American territory, a place where nothing happens, where tramps still ride the rails and beg for handouts from back doors, where religion equals sanctimoniousness and gossip replaces thought. Moonstone is an end-product of Emerson's fetish of self-reliance. The desire for privacy has found its hell there.

In this desert within the desert, Thea Kronborg has been born with musical talent, and she gravitates early to the only oasis in the town, the home of the German tailor, Kohler, who with his wife has built a kind of Garden of Eden around his windmill on the plain, filled

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with grape arbors and fruit trees, pigeon-cotes and rabbits. Also at the Kohlers lives Professor Wunsch, Thea's first piano teacher, who recognizes her musical gift and inspires her to want to be more than she is. As her friend, Dr. Archie the GP, put it, "We all like people who do things, even if we only see their faces on a cigar-box lid." Anyone who has ever "taken" music or played in a school band in middle America will recognize the identification of culture with the German piano teacher in this novel.

Thea Kronborg as a girl is surely Willa Cather's most appealing creation. A big, inarticulate but vibrant Swedish blonde, her physical stamina is matched by her intelligence and stubborn will. Set over against the dull priggishness of her brothers and sisters, her drive to transcend her origins and become a professional musician is more ruthless than she herself realizes; from her first halting beginnings she sums up the yearnings of all such gifted exiles-to-be who people American fiction. Thea closely resembles other youthful Cather characters, whose search for some Grail or other lies in the mainstream of American myth. While not hysterical like Paul, Thea shares his fascination with the life of art, again exemplified by well-worn European models. Willa Cather loves Thea, feels her painful loneliness in brackish surroundings, and communicates her affection for her with total success. By contrast, the other characters are all cut from shadows; the men are too fatherly, without any sexual credibility, and when one of them is killed in a train wreck so that Thea may use the insurance money he left her to go to Chicago to study piano, the reader begins to have real misgivings. As long as the focus is on youth, Cather is sure of herself. But Chicago means, if it means anything, growing up.

The first 200 pages of *The Song of the Lark* are as good as anything Willa Cather ever wrote. Then in Chicago, at just the point where another writer might have begun to complicate the story, her book begins to become weary and predictable. Thea "takes" piano from a new teacher, who accidentally discovers that she can sing. She meets Fred Ottenburg, the jovial son of a St. Louis brewer, who has the money and connections she needs and who introduces her to a patron. One has hopes for Fred, but he turns out to have a demented wife in the background; divorce is impossible, and Thea won't live with him otherwise. The book is by now

Old Poem

The train you took has taken all night.
East and North now, you wake to fog.
At the last platform a pick-up's waiting.

A kid drives, with headlights on,
focused down close against the blacktop.
No lights come out of the dark to meet you.

Maybe an hour: the road ends steep
on a wharf soft with fog. The fog is tidal:
an oak shows up, its bare limbs dripping.

A luncheonette trailer is parked on the wharf.
The fat woman offers you welcome coffee:
she slides back her window and slides out

the cup. She won't take your money;
she seems to imagine some family resemblance.
Or maybe she's sorry about your old limp.

Her nose is in the wrong part of her face.
She breathes like a foghorn. Her teeth
are stained as your ebbed mug of coffee.

You, she says, you probably feel
like you just got to The Jumping-Off Place.
Just about then the fog gives up.

The oak stops dripping. The kid backs down,
to hitch his pick-up up to the trailer.
The lunch window locks. There's almost sun.

Now you can see both of the islands:
not far apart, but far miles out.
They look like stains on the pewter ocean.

Save for the islands there's no horizon,
except between them there isn't a seam.
Not even a line between sky and water.

The fisherman down on the float says nothing.
He lets you cast off the boat yourself,
the boat you bought from an ad, sight unseen.

You find she mostly fires on all four.
She only skips sometimes. It doesn't matter.
The islands are straight down the bay,

straight out. There isn't a buoy in sight, or
a ledge. There's no sign of wind, no
other boat. Only the islands over your bow.

There isn't a seam, except between them.
The closer you head the clearer it comes.
What looked from land like old water, old sky,

between the islands divides to new color;
it looks now more like old tin and old lead:
the edge it took half your life to discover,
the edge you've kept writing all night to get over.

PHILIP BOOTH

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firmly imprisoned in the sexual and other conventions of its period and begins to read like a popular magazine story. Thea and Fred go on a fling to New and Old Mexico, during which undescribed things occur, most likely in bed. They return to New York, and from there Thea leaves for Germany to develop her singing voice. Fadeout, and 10 years later she turns up singing Wagner at the Met, where the audience predictably includes all her old Moonstone friends. She has become a great singer, but she has "paid the price"; an "artiste" in Moonstone's terms, her personal life has become nothing but rehearsals, rail tours, jealousies among the singers and harassments by managers and agents. Good old Fred still hangs around in the wings, but nothing will come of that.

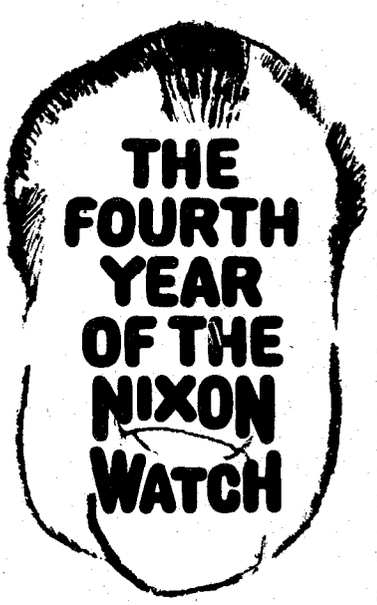
In the preface to *The Song of the Lark*, Willa Cather wrote: "The interesting and important fact that, in an artist of the type I chose, personal life becomes paler as the imaginative life becomes richer, does not, however, excuse my story for becoming paler. The story set out to tell of an artist's awakening and struggle, her floundering escape from a smug, domestic, self-satisfied provincial world of utter ignorance. It should have been content to do that." Yet the fact remains that Willa Cather was not content to do that. She wanted to write about Thea after her success as well as before; and such self-criticism does nothing to explain the weakness of the last two-thirds of the book. She is at a loss to know how to write about what she has created, because for whatever reason she has lost interest in the kind of person Thea has become, and has failed to understand Thea's inner life as a mature woman. That life could have been, it must have been, much more than concert-tour routines. The author seems to have forgotten that Thea had all along been only too willing to pay the price of success; hence the true nature of her satisfaction and accomplishment once she has been acclaimed is never explored. Willa Cather turns away from her, suggesting bleakly that soprano voices never last long and that the life of an opera singer is one long invasion of privacy.

The problem in this book, to me the most interesting of the 12 novels Willa Cather wrote, lies in her over-romanticized notion of what art is and what it can and cannot do. Why must Thea's "personal life" pale as her "imaginative life" grows richer? This is to blame the imagination for something that is not its fault. If art alone is supposed to rescue the appealing Thea, or anyone else, from the Moonstones of this earth and sustain them to success and beyond, then all are going to be disenchanted in the long run, and the years after youth are likely to take on a dying fall, as they do in this book and in other of Willa Cather's books, such as *The Professor's House*, which are suffused with sadness at the way things turn out. But art, as someone has said, makes nothing turn out; one has to look elsewhere for such agencies, especially after the first 20 or 25 years of life. Willa Cather made art and religion both serve as crutches to shore up what she calls "personal life." As might be expected, religion fits the role somewhat better than art, and her writing about priests in *Death Comes for the Archbishop* and *Shadows on the Rock* does make for neat if rather narrow stories. But with Thea Kronborg she is not dealing with priests but with a highly secular young animal whose appealing vitality she was for some reason unable to manage or even to understand once it had left its familiar frontier surroundings.

Nothing is clearer in Willa Cather's work than her profound discontent with the effects of early industrialism on the human spirit in the United States. Her benighted small-town characters rank in their frustrations with Sherwood Anderson's Ohio villagers. Her prairie books, including *The Song of the Lark*, combine the cozy security of physical scene that one finds in a children's writer like Laura Ingalls Wilder with the desolate interior moonscapes of Anderson or Sinclair Lewis. But in none of her books does she point the way toward a new consciousness that might confront the reality of the evil she hates, a modern, creative consciousness that would go beyond fretting over the tackiness of the frontier anti-culture. Willa Cather makes a bitter commentary on the materialism of American life, but her bitterness in the end is little more than an academic gesture, because she lays too great a store on Paul's or Thea's or Tom Outland's romanticized notion of art as youthful escape; and when youth passes she has nowhere meaningful to go. Paul and Tom she killed off (one by suicide, the other in the First War) but she let Thea survive and was sorry for it.

Instead of immersing her conception in the "destructive element," instead o

JOHN OSBORNE



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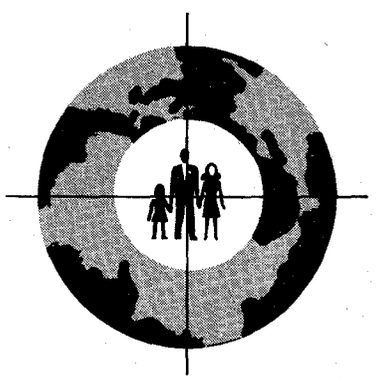
embracing and exploring the fractured consciousness of modern man and reassembling it in a new creative reality, as Joyce or Proust or Picasso or Stravinsky were all trying to do at just about the time when she was writing *The Song of the Lark*, she took refuge in the attractive but unsupported idea that youth is finer than age, or that art is finer than life. This suggests the intellectual and emotional boundaries of Willa Cather's terrain as a novelist. She seems oblivious of Virginia Woolf's hunch that something in human character may have changed in the years just before World War I. The revolutions in music, literature and painting, in man's thinking about time and sex that began to occur in those years passed by her without leaving any apparent mark. As a result, not only does her writing about adults seem perilously old-fashioned today but her forecast of what youth had to face, in the prairie towns as in the cities, was not imaginatively sustained in her works. As Thea mused, "There was certainly no kindly Providence that directed one's life; and one's parents did not in the least care what became of one, so long as one did not misbehave and endanger their comfort. One's life was at the mercy of blind chance." Such a view, while highly tenable, required for its working out in modern fiction artistic resources of a sort Willa Cather simply did not possess.

Lawrence Olson



FOCUS ON THE FAMILY

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Sedulus on TV

Those Poor Oppressed Licensees

Our marvelous system of checks and balances is at the moment one of bickers and blocks. Has been so before, will be so again—but remains nothing to brag about. Recent squabbles have elicited from the learned the word "byzantine" as a way of describing intrigue so complicated and diverse that no positions are clear, no alliances firm. Certainly in the communications game the byzantine factor is enormous, making a sort of model of the way to frustrate order and common sense.

But "byzantine" may still not be the right word. The word suggests intrigue without a clear center; it brings to mind a condition of free enterprise among creeps from all over, whereas the dominant and continuously astonishing non-byzantine feature of the current bickering about TV control is, as with Watergate, the insistent White House role.

The White House has been driven into a byzantineness of its own by Watergate, but its hoped-for character in the overall structure of government has not been—nor is—byzantine but authoritarian. Its actions have been constantly governed by a takeover impulse; it has consistently wished to *use* the agencies that are nominally governing in its stead, and if they have not chosen to be used it has consistently sought to chop off their heads. From Watergate we have come to know that the White House uses of the FBI, the CIA, the IRS and the DOD are thought by White House officialdom to be almost unlimited, extending far beyond the law; but the less spectacular White House power plays need to be noted too, especially those in communications, that is, moves against the networks and the press as well as against public and governmental agencies designed to assist in ordering the airwaves, namely the Federal Communications Commission, the Public Broadcasting System and the Corporation for Public Broadcasting. These moves continue and should not be ignored. The White House seems to be persuaded that it can impose, as a matter of course and in all fields, its own order at the expense of existing agencies, private and public, when those agencies fail to salute. There would therefore seem to be good reason to fear not only the nature of the order being striven for, but also the extent and range of the ordering impulse.

Conservatives will inevitably be reminded of FDR stacking the Supreme Court, but that sort of arm-twisting, which of course President Nixon has himself practiced, now seems a relatively innocent part of the democratic spoils process. A more accurate and also more sinister model for the current White House strategy is Andrew Johnson's attempt to start his own alternative war department. To work within the existing agency structure is one thing; to set up at the White House a competing agency is another. All our recent Presidents have been driven to some measure of competition with government agencies, particularly in relation to foreign affairs; but even in foreign affairs Nixon far outstrips his predecessors. It would seem that, barring an effective flying tackle of the man for his role in the Watergate episodes, he will come to see no limit to the uses of the alternative-agency strategy, and will accordingly leave us a dangerous legacy: the disposability of existing regulatory institutions at the discretion of the chief executive.

Thus, on the byzantine scene of TV programming control, the issue would seem to be not whether controls should exist—they should, though everybody in this glorious free country pleads for less control when his interests are threatened—but who or what should be the controller, and under what conditions he or it should exert legally assigned powers. It is neither logically nor politically necessary to plead for *laissez faire* simply because certain agencies that won't encourage *laissez faire* are corrupt or stupid. The sooner we byzantines can agree on the obvious the better, the obvious being that we cannot safely leave either our children or our dubiously enlightened adult democratic selves wholly in the hands of marketplace media forces.

A salutary new document on this issue has appeared on my desk. It is an attack on the White House's current effort to undermine FCC licensing powers, and it is from a source that a few years ago would, I hazard to guess,

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have been on the other side, the Committee on Civil Rights of the Association of the Bar of the City of New York (42 West 44th Street, NYC). In this document, appropriately for the problem facing us, a civil rights group emerges in favor of rather than against media controls, so long as these are properly located and exercised. The document denies that the conventional appeal to the First Amendment—made by White House media guru Whitehead and backed up by a proposal to amend the Federal Communications Act of 1934 so as to *reduce* the FCC's role in judging a licensee's public service effort—is any way to improve or enforce democratic justice. The proposed White House amendment indulges, say the New York protesters, the old fallacy that there are only two parties in a TV squabble, potentially oppressive government and a potentially oppressed licensee. They add that a third party, the public, must be allowed to enter into the fray (citations are made of the famous *Red Lion* case, etc.), and for this purpose the role of the FCC must be kept strong for receiving and passing judgment upon public complaints against existing licensees, and for encouraging competition for the use of airwave frequencies. If the FCC is undermined further in its regulatory functions here, the airwaves will be sold out completely to well-heeled private interests.

Simple?—it ain't, but there is the core of it nonetheless. As in the cases of other White House activities the proposed amendment threatens the very concept of public interest; and as the New York protesters put it the amendment would reduce the already minimal demands upon licensees for service in that interest. It would also eliminate "the Commission's authority to set programming criteria for consideration in a renewal application," reduce "citizen participation" to the near vanishing point by "nearly doubling the license period," and make standard the already intolerable delays in implementing FCC authority over licensees.

What is being *said* in such protests to White House finagling? The obvious point is that appeals to the freedom are as usual deceptive, and are especially so in the monied world of local radio-TV stations that the White House has chosen to back. But a less obvious point needs to be mentioned too. It is that the Washington bureaucracy has been so subverted by the Nixon White House that almost all orderly federal activity is threatened. Thus the bi

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underlying problem is how to keep the FCC and the other initials seriously *in* the business they have been entrusted with. One thing seems evident: the White House doesn't want them where they are; it wants them in *its* business, not theirs.

Kauffmann, *from page 22*

ings about her, a feeling of potentiality and also of affectation. Now, presumably with Bridges' help, she strikes a realized note from our very first sight of her, standing on the lawn of the hospital gazing at a pond—the most wonderful first effect an actor can create, not that a character is going to be built for us (though of course it is) but that it *has* been built, that we are joining the created character at this moment. This shaken, groping young woman simply appears. I got the image that Miles saw this woman as lifted and held by the nape of her neck, dangling in air between the thumb and forefinger of a giant fate. Her whole being seems to hang physically from her nape, helplessly, like a puppy. As her feet figuratively reach the ground again, through the course of the film, the center of physicality seems to shift outward to her shoulders, once again squared, and the tonality of her character follows suit, still gentle but nevertheless stronger.

As for Shaw, I have long thought him one of the most gifted English actors on stage or screen, or both. He changed Pinter's *Old Times* for me almost singlehandedly. The London production had another actor in the one male role, but it wasn't until I saw the New York production with Shaw that I got an idea—in my own view, at least—of what the play was about. His film performance in Pinter's *The Birthday Party* was superb, characteristically underestimated by most critics because the film as a whole was poor. As Lord Randolph Churchill in *Young Winston*, he was good enough but miscast. Here he is perfectly cast, and plays perfectly.

Shaw is as close as British films have come to producing a Cagney or Brando or Gabin—a talented actor whose generative force is menace, lurking surprise. But, like them at their best and unlike Richard Harris), he doesn't merely trade on this, he acts. His characterization of Leadbetter is a synapse in the social system of Britain. And the drunken scene in which he bursts in on Miles and her fiancé is a sustained explosion of outrage exacerbated by impotence, strength defeated by class calm. It is a crystalline moment, which, inevitably, collapses his whole life.

Some have said that the film is flawed because it is built on a mere misunderstanding—Shaw's belief that Miles loves him and will respond. This seems to me a myopic view. The man's tragedy is that *whether or not* she reciprocates, he loves her and has finally to burst out with it—hopeful of course but without alternative. The essence of the catastrophe is that his contact with her put him in a kind of iron cart—not a limousine—that cruelly and ineluctably took him over a cliff. The social conditions of *The Hireling* may be past in Britain or almost past; but it is a well-shaped and excellently performed small historical tragedy.

"*Der alte Sturm, die alte Müh,*'" says Wotan when Fricka comes in with her complaints in the second act of *Die Walküre*. Loosely translated: "The same old beefs, once again." I thought of Wotan when I read the inside stories about what happened to Sam Peckinpah's *Pat Garrett and Billy the Kid* before release, how the producers had snipped and altered it and that what we're seeing is not the director's concept. Certainly it's a ghastly practice, but almost every American film director (and many a foreign one) knows that it can happen to him, that it usually does, and that he has to be judged by the film as released, not as he talks about it or shows it privately to friends. The right of last cut virtually doesn't exist for US directors; and virtually every review ever published in this country that treats a film as the director's own is merely using a semantic convenience. But what's the critic's alternative? Chaos.

The change, of course, ought to be in the right of final cut; if a director is worth hiring, he's worth the right to finish the job, or should be. But until that change occurs, all the talk about the troubles of Peckinpah—and many others—is only painful, not useful. Anyway, the whole question of the textual integrity of films after release, even in those cases where the director has had final cut, is almost too sore to bear thinking about. In a New York theater recently I saw *Potemkin* with its single most famous shot—the woman with the broken eyeglasses—not even in it. (And like everyone who rents 16mm prints for classroom use, I'm continually appalled by missing snippets—not to mention filthy prints that are the rule rather than the exception. Complaints are always politely answered; nothing changes.) The situation is simply uncontrollable, like any complex matter that depends on voluntary honesty rather than enforceable prescription.

But whether it's first release or subsequent release, we can only deal with what we see. I have long and often urged viewers to complain when they see films that have been tampered with. I urge directors to complain about interference and to take what action they can against it, as a professional group, and would do whatever I could to support them. OK, now everyone is urged. Meanwhile, how can I review a Peckinpah picture that I and others will not see?

PROBLEMS IN SEX?

☐ No Pep at Night ☐ No Vim or Vigor
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